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“AND THEY SHALL EAT UNTIL THEY ARE SATISFIED:” CRITICAL DISABILITY
THEORY AND WIDOWS, ORPHANS, ALIENS, AND LEVITES IN THE BOOK OF
DEUTERONOMY

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“AND THEY SHALL EAT UNTIL THEY ARE SATISFIED:” CRITICAL DISABILITY
THEORY AND WIDOWS, ORPHANS, ALIENS, AND LEVITES IN THE BOOK OF
DEUTERONOMY

A Dissertation Presented to the Graduate Faculty of

Dedman College

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in

Partial Fulfillment of the Requirements

for the degree of

Doctor of Philosophy

with a

Major in Religious Studies

by

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August 6, 2019

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“And They Shall Eat Until They Are Satisfied:” Critical Disability
Theory and Widows, Orphans, Aliens, and Levites in The Book of
Deuteronomy

Advisor: Professor Roy L. Heller
Doctor of Philosophy conferred August 6, 2019
Dissertation completed June 16, 2019

This dissertation considers the construction of widows, orphans, aliens, and Levites in deuteronomic law. Making use of multiple methodologies, literary criticism, Disability Studies, and food and foodway studies, this study argues that, in Deuteronomy, the members of the formulaic reference, “the alien, the orphan, and the widow,” often associated with “the Levite” operate as cultic functionaries and participate in cultic meals in order to secure stability and continuing abundance in the land for all of Israel.

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INTRODUCTION

Research Question

This study examines the literary function of the motif, “the alien, the orphan, and the widow,” in deuteronomic law and considers its rhetorical function in light of literary criticism, disability studies, and food and foodways studies. Concern for the “widow and orphan” is a well-known theme from ancient Near Eastern texts. Deuteronomy, however, changes the order to “orphan and widow” and places “the alien” before this phrase to produce a singularized, formulaic motif, “the alien, the orphan, and the widow.” This motif occurs in eight verses within the law collection in Deuteronomy (Deut 14:29; 16:11, 14; 24:19-21; and 26:12-13), which form the basis for this study. Over half of the verses in which this motif appears associate “the Levite” in the same singular, stylized form with “the alien, the orphan, and the widow.” To normalize this motif, English translations often obscure the formulaic nature of this biblical Hebrew motif by removing the definite article and pluralizing each noun: “aliens, orphans, widows and Levites.” This obfuscation softens the formulaic character of the motif and supports historical reconstruction of the members of this motif as “real people” who were vulnerable and impoverished in “ancient Israelite society.”

Most of the secondary literature within biblical studies assumes that “the alien, the orphan, the widow, and the Levite” were poor and that these eight deuteronomic laws compelled the rest of Israelite society, which did not experience food insecurity or hunger, to supply this group with food. This care of vulnerable persons becomes, according to conventional wisdom,

the basis of Deuteronomy's humanitarian ethos, prescribing behavior toward this group on the part of larger Israelite society. Rather than indicating a group of impoverished people in need of charity, this study contends that the formulaic presentation, "the alien, the orphan, and the widow" through its association with "the Levite" serves a cultic function in the service of a larger ideological goal within Deuteronomy.

The Problem

Several themes emerge in the secondary literature concerning "the alien, the orphan, the widow, and the Levite," whether treated together or individually. First, the assumption that "the alien, the orphan, the widow, and the Levite" were landless and thus, impoverished, in "ancient Israel" pervades the literature that treats them.¹ Second, the existence of these persons outside of the Israelite kinship structure—specifically the household—dominates the discussion of the members of this motif within the secondary literature. Third, the idea of charity emerges as a prevalent theme, specifically charity in the form of food support. This points to a fourth important theme in the secondary literature and in Deuteronomy as well: the theme of food and food security. In fact, this study will show that food security is a defining feature in the structure in the book of Deuteronomy. Lastly, references to disability emerge in the secondary literature which makes use of disability language, associates the members of the motif with disabled persons in the text, and draws an analogy between "the alien, the orphan, the widow, and the Levite" to disabled people today. Despite the consistent presence of these themes, the secondary literature maintains that the kinship structure of "ancient Israelite society" resulted in the

¹ Throughout this study, I follow Philip R. Davies's discussion of the "three Israels" as a scholarly construction: the literary Israel in the biblical text, the historical inhabitants of Palestine during the Iron Age, and "ancient Israel" a combination of the two. See Philip R. Davies, *In Search of 'Ancient Israel: A Study of Biblical Origins*, 2nd ed. (London: T&T Clark, 2015), 1 and 11-36.

disenfranchisement of actual people in antiquity without considering the recurring themes of food insecurity, charity, or disability language.

Impoverishment

The secondary literature that treats “the alien, the orphan, the widow, and the Levite,” individually or together, engages in historical reconstruction of this group, arguing for the powerlessness and impoverishment of actual persons in Israelite society.² The formulaic nature of the triad, “the alien, the orphan, and the widow,” is well-recognized:

Aus der in Dt. x 18a vorgegebenen Folge (1.) *ytwm* – (2.) *’lmnh* wird durch Voranstellung des *gr* die für das deuteronomische Gesetz (Dt. xii-xxvi) charakteristische Folge: (1.) *gr* (2.) *ytwm* – (3.) *’lmnh*. Sie wird in allen weiteren Deuteronomiumtexten gewahrt: Dt. xiv 29, xvi 11, 14, xxiv 17, 19, 20, 21, xxvi 12, 13.³

From the predetermined sequence in Dt. X 18a, (1.) *ytwm* – (2.) *’lmnh*, through the placing of the *gr* in front, (1.) *gr* (2.) *ytwm* – (3.) *’lmnh* becomes the characteristic succession for the deuteronomic law (Dt. Xii-xxvi). It is preserved in all wider Deuteronomic texts: Dt. xiv 9, xvi 11, 14, xxiv 17, 19, 20, 21, xxvi 12, 13.

Additionally, although singular references to “the Levite” occur in over half of the verses, mirroring the formula, “the alien, the orphan, and the widow,” no analogous grouping, such as a “tetrad,” emerges in the secondary literature.⁴ The secondary literature, explicitly or implicitly,

² F. Charles Fensham, “Widow, Orphan, and the Poor in Ancient Near Eastern Legal and Wisdom Literature,” *JNES* 21 (1962): 129-139. Thomas Krapf, “Traditionsgeschichtliches zum Deuteronomischen Fremdling-Waise-Witwe-Gebot,” *VT* 34 (1984): 87-91. Donald E. Gowan, “Wealth and Poverty in the Old Testament: The Case of the Widow, the Orphan, and the Sojourner,” *Int* 41 (1987): 341-53. Norbert Lohfink, “Poverty in the Laws of the Ancient Near East and the Bible,” *TS* 52 (1991): 34-50. Mark Sneed, “Israelite Concern for the Alien, Orphan, and Widow: Altruism or Ideology?” *ZAW* 111 (1999): 498-507. Harold V. Bennett, *Injustice Made Legal: Deuteronomic Law and the Plight of Widows, Strangers, and Orphans in Ancient Israel*, The Bible and Its World (Grand Rapids: Eerdmans, 2002).

³ Thomas Krapf, “Fremdling-Waise-Witwe-Gebot,” 89.

⁴ Two treatments exclude the Levite: Thomas Krapf’s tradition-history study of the motif, “the alien, the orphan, and the widow:” See Thomas Krapf, “Traditionsgeschichtliches” and Harold V. Bennett’s book-length treatment, *Injustice Made Legal*. Krapf simply ignores Levites, while Bennett explicitly excludes them from his study. Bennett acknowledges that Levites are included among widows, orphans and aliens in Deut. 14:26-28;

includes Levites among the members of the motif. For example, a discussion of the third-year tithe explicitly names Levites among the group of marginalized persons and recognizes the inadequacy of other so-called “feeding programs.” “In Dtn 14,28 f., a triennial tithe law was added to the Covenant Code Sabbatical Year because the Sabbath year was apparently not enough. Note the new category of marginal here: Levites.”⁵ In other instances, the secondary literature indirectly includes Levites among “the poor:” “In Deut. 14:28 the command is that widow and poor must be allowed to feast on the tithes. In 16:11, 14 the Israelite receives the command to let the widow, orphan, and *ger* partake in his feasts.”⁶ Not only are widows, orphans, aliens, and Levites poor, but also they are the poorest of the poor: “Sociologically, the *gērīm* of the Deuteronomic legislation still belong—like orphans, widows, day laborers, and unemployed Levites—to the poorest part of the Judean population.”⁷ According to this reconstruction, they existed on the fringes of Israelite society as the most destitute of the poor.

Exclusion from the Israelite Kinship Structure

While the secondary literature gives assorted reasons for the disenfranchisement of the groups of people that comprise the motif, most attribute their poverty to their location outside of the Israelite social structure, especially the smallest unit of Israelite society, the household. For example, outside of the household, they lack the association with an adult, Israelite male:

The *almanah*, orphans, strangers, and outcasts are in a liminal state because they are without a male guardian or patron. In that ancient society, unlike ours, such a

however, suspicious of Levites as poor, he builds a speculative argument positing Levites as the source of produce, animals, and other goods available for purchase at a central cultic location in deuteronomic law and argues for their material support from the offerings in Deut. 18.3-5. See Bennett, *Injustice Made Legal*, 87.

⁵ Mark Sneed, “Israelite Concern,” 506.

⁶ F. Charles Fensham, “Widow, Orphan, and the Poor,” 184.

⁷ Ranier Albertz, “From Aliens to Proselytes: Non-Priestly and Priestly Legislation Concerning Strangers,” in *The Foreigner and the Law: Perspectives from the Hebrew Bible and the Ancient Near East*, edited by Reinhard Achenback, Ranier Albertz, and Jakob Wöhrle, BZAR 16 (Wiesbaden: Harrassowitz Verlag, 2011), 56. Sneed, “Israelite Concern,” 500-501.

person is in need of a male guardian whether this be a new husband, a son (de Vaux: 39-40, 54-55, 149; Hoffner 287-91) or some other male relation. If she is a person without a significant living male relative, her future is bleak. Without money (Cohen: 487-88) or influence, she is mentioned with the outcasts of society such as orphans, sojourners, hirelings, other poor, and Levites.⁸

The lack of an adult, male guardian, according to deuteronomic law, limits access to food:

This common thread among these types of individuals provoked the drafters of Deut 14:22-29; 16:9-12, 13-15; 24:17-18, 19-22; and 26:12-15 to list these persons as a social group. Furthermore, the absence of an adult male protector affected the circumstances of these persons, for it guaranteed that they were a category of socially weak, vulnerable individuals in the biblical communities. This absence limited the access of these persons to commodities in the biblical communities.⁹

One study extends the lack of a male guardian to a lack of physical strength:

Widow and orphan were dependent on the good will of others because of the social structure (male-dominated), age, and physical strength. Immigrants were also dependent on good will because they had no natural ties to the social structure and may also have been obviously different because of customs and accent. So their distress sometimes included poverty (not necessarily as Lev. 25:47 shows) but it would be easier for them to become poor than any other group because it was so easy to cheat them and their options were so few.¹⁰

This line of reasoning continues that if the members of this group lacked the support of an adult, Israelite male, then they had no access to land ownership: “Every third year a tithe of all produce was to be brought to the local town, to be available to the three groups we have been discussing, plus Levites, whose situation might also be precarious since they had no inheritance of property (Deut 14:28-29; 26:12-15).”¹¹ They are described as generally powerless:

The worst problem, that which these groups have in common, is powerlessness and its consequences: lack of status, lack of respect, making one an easy mark for the powerful and unscrupulous, so that those who are not poor are likely to become poor and those who are poor are going to get poorer.¹²

⁸ John Rook, “Making Widows: The Patriarchal Guardian at work,” *BTB* 27 (1997): 10.

⁹ Harold Bennett, *Injustice Made Legal*, 55.

¹⁰ Gowan, “Wealth and Poverty,” 344.

¹¹ *Ibid.*, 345-46.

¹² *Ibid.*, 344.

According to another study, their position outside of the kinship network deprives them of legal rights with grave consequences: “What all three have in common is their lack of kin network to support them at a specific locale. Without this and without any kind of modern welfare system, these social categories were quite vulnerable to oppression (legal and illegal) and annihilation in ancient times.”¹³ The location of “the alien, the orphan, the widow, and the Levite” outside of the Israelite social structure, these studies argue, relegates them to the periphery of Israelite society, closes the avenues of land ownership (the necessary means of food production), and deprives them of legal protection. The deuteronomic laws were then credited in these studies with providing sustenance, security, and safety.

The Themes of Charity and Food Security

The trajectory of the argument for Deuteronomy’s increased humanitarian nature often begins with the concern for widows and orphans present in ancient Near Eastern texts.¹⁴ References to widows and orphans have a long history dating to the inscriptional cones from the reign of Urukagina, approximately 2400 BCE, the Middle Assyrian Laws, and the most well-known example, the Laws of Hammurabi (LH).¹⁵ As part of its developmental milieu, the biblical text is thought to simply add new groups of poor people to those who were being cared for by beneficent gods or rulers, and deuteronomic law, continuing in this tradition, evidences concern for their welfare and protection. There is a direct connection with Deuteronomy’s

¹³ Sneed, “Israelite Concern,” 500.

¹⁴ Fensham, “Widow, Orphan, and the Poor,” 129-30. Bruce Malchow, *Social Justice in the Hebrew Bible*, (Collegeville, MN: Liturgical Press, 1996), 299. See also, Léon Epsztein, *Social Justice in the Ancient Near East and the People of the Bible* (London: SCM, 1986), 3-42 and Moshe Weinfeld, *Social Justice in Ancient Israel and in the Ancient Near East* (Minneapolis: Fortress, 1995).

¹⁵ Jerrold S. Cooper, “Medium and Message: Inscribed Clay Cones and Vessels from Presargon Sumer” *RA* 79 (1985): 97-114. Douglas R. Frayne, *Presargonic Period (2700-2350 BC)*, RIMP 1 (Toronto: University of Toronto Press, 2008). Moshe Weinfeld, *Social Justice in Ancient Israel and in the Ancient Near East*, (Minneapolis: Fortress, 1995), 49.

prescribed humanitarian nature, the members of the formulaic motif, and individual deuteronomic laws concerning the annual and triennial tithes, feasts of Weeks and Booths, and the right to glean. Taken together, these laws are thought to establish a charitable feeding program for vulnerable people living within Israelite society by providing the basic means of survival: “Going beyond just warning against oppression, this particular legislation [Deut. 24:17-21] at least provides the bare necessities for the marginal.”¹⁶ The laws in Deuteronomy enjoin the wider community to protect this vulnerable group: “The general conception of protection of the weak is, furthermore, expanded as a common way of life of ordinary people. They have to respect the rights of the poor or else receive punishment, if not through legal means, then through direct punishment of the god.”¹⁷ Ultimately, deuteronomic law expresses YHWH’s special concern for and protection of the vulnerable in society:

There is, furthermore, a special interest in the fate of the widow and orphan in Deuteronomy. In Deut. 10:18 the protection of this group is linked with the Supreme Judge, Yahweh, who is not willing to accept bribery, but willing to do justice to widow, orphan, and ger (stranger). This text is the basis for all the later stipulations in this group. In Deut. 14:28-29 the command is that widow and poor must be allowed to feast on the tithes. In 16:11, 14 the Israelite receives the command to let the widow, orphan, and ger partake in his feasts. In 24: 17-22 special stipulations concerning this group are made, e.g. the rights of the widow must not be abused and furthermore food must be left on the land for them. In 27:19, a person who abused the rights of the ger, widow, and orphan is cursed. Every time the lead is given, Yahweh gives justice to this group and everybody has to do likewise.¹⁸

What is absent from this discourse is a theoretical discussion about the nature of biblical law.

The formulaic nature of the motif is ignored, and deuteronomic law is assumed to have been operational and authoritative in a concrete ancient society. Treatments of deuteronomic law point to its utopian nature and yet, assume that when “the alien, the orphan, the widow, and the Levite”

¹⁶ Sneed, “Israelite Concern,” 506.

¹⁷ Fensham, “Widow, Orphan, and the Poor,” 138.

¹⁸ Ibid., 135.

are the objects of altruism, these laws were practiced and enforced, even though most of the laws pertaining to them are apodictic in form, lacking an explicitly stated punishment for transgression. The formulaic motif within the genre of law is not recognized as pointing to something beyond its individual referents.

Additionally, no discussion considers the ideological function this motif may serve. Disability theory explicates the dynamic of objectification and construction of difference which sets apart disparate groups of people in the service of a larger ideological goal. Texts that appear on the surface to care for vulnerable groups of people, in fact, participate in and contribute to their marginality. The longstanding, cherished value of care for widows and orphans which occurs in specific contexts in ancient Near Eastern literature—care of vulnerable persons by gods and kings—serves a similar ideological purpose in Deuteronomy. In a book that curtails the duties and power of a human king, Deuteronomy reestablishes YHWH as a king of exemplary character and sovereign ruler of Israel.

Discussions of deuteronomic law categorize the laws containing the motif as a charitable welfare system for the support of the members of this motif and, while not explicitly mentioning Levites, include verses in which references to “the Levite” appear:

The spirit of generosity which directed the formulation of some of the cultic laws also resulted in the formation of many laws concerning matters of charity. In these laws the mention of the alien, orphan and widow, always in that order, is a typical feature (Deut. 24.19, 20, 21). The list of three dependent members of society is also found in many cultic laws (Deut. 14.29; 16.11, 14; 26.12).¹⁹

The annual and triennial tithes, the secondary literature argues, form the foundation of this ancient feeding program:

The law of tithing in Deuteronomy reflects a humanitarian tendency, according to which sacred contributions are used for the needy (Deut. 28.29; 14.28-29; 26.12-

¹⁹ Christiana van Houten, *The Alien in Israelite Law*, JSOTSup 107 (Sheffield: JSOT Press, 1991), 78. See also Bruce Malchow, *Social Justice*, 304.

15). The law commands tithing every third year. The tithed produce is eaten at home and not in a central temple. The tithes were meant for the local needy people, including widows. These tithes, transferred from the sanctified sphere as it appears in the priestly literature (Lev 27,30-33) or as belonging to the Levites (Num 18,21-32) to the social sphere, enhance the emphasis on sharing with the needy.²⁰

Additionally, casual, negative assumptions about disability appear throughout the secondary literature are casual

Disability in Deuteronomy

The book of Deuteronomy does contain explicit disability language, some with overtly negative connotations, such as the reference above (Deut 28:29) and, for example, the legal injunction concerning the sacrifice of firstlings:

וְכִי־יִהְיֶה בוֹ מוֹם פֶּסֶחַ אוֹ עוֹר כֹּל מוֹם רָע לֹא תִזְבַּחְנוּ לַיהוָה אֱלֹהֶיךָ

But if it has a defect, lame or blind—any bad defect—you shall not sacrifice it to the LORD your God (Deut 15:21).

On the other hand, Deuteronomy curses anyone who hinders a blind person: “Cursed be anyone who leads astray a blind on the road,” אָרוּר מְשַׁנֶּה עוֹר בְּדֶרֶךְ (Deut 27:18). Other studies show how Deuteronomy preferences sight and audition.²¹ However, some of the secondary literature about widows, orphans, aliens, and Levites in Deuteronomy draws explicit, unexamined connections to disabled people today. For example, in a footnote to the assertion that widows,

²⁰ Pnina Galpaz-Feller, “The Widow in the Bible and in Ancient Egypt,” ZAW 120 (2008), 238. Note Galpaz-Feller’s curious inclusion of Deut. 28:29 in the laws which illustrate Deuteronomy’s humanitarian nature, connecting “needy” with disability: “...you shall grope about at noon as blind people grope in darkness, but you shall be unable to find your way; and you shall be continually abused and robbed, without anyone to help.”

²¹ Hector Avalos, “Introducing Sensory Criticism in Biblical Studies: Persar and Visiocentricity,” in *This Abled Body: Rethinking Disabilities in Biblical Studies*, ed. Hector Avalos, Sarah J. Melcher, and Jeremy Schipper (Atlanta: Society of Biblical Literature, 2007): 47-59; Jeremy Schipper, “Disabling Israelite Leadership: 2 Samuel 6:23 and Other Images of Disability in the Deuteronomistic History,” in *This Abled Body: Rethinking Disabilities in Biblical Studies*, ed. Hector Avalos, Sarah J. Melcher, and Jeremy Schipper (Atlanta: Society of Biblical Literature, 2007): 103-13; and Rebecca Raphael, *Biblical Corpora: Representations of Disability in Hebrew Biblical Literature* (New York: T&T Clark, 2008).

orphans, and aliens were the “least of the poor,” the author explains, “The other group which we would expect to be included are the disabled, but Old Testament law shows little concern for them.”²²

The same discussion compares “the alien, the orphan, the widow, and the Levite” to disabled people and infantilizes people with cognitive disabilities: “Looking at these groups in this way may help us to appreciate their plight more fully in that we can identify parallels in our own culture (e.g. the change of fortune from a prestigious job to unemployment, or the inability to help oneself because of mental disability rather than physical immaturity).”²³ Thus, there is a tendency in the secondary literature to present disabled people as a natural, modern-day analogy to “the alien, the orphan, the widow, and the Levite.”

Another discussion that assumes the poverty and dependency of people with disabilities makes extensive use of a problematic body of theory that assumes the dependence and expendability of disabled people:

Lenski proposes that a class of expendable persons was a feature of agrarian communities. He implies that individuals for whom other members of society had little or no need, or who were unemployable, constituted this stratum. This social subdivision of nonessential persons includes petty criminals, beggars, itinerant workers, individuals with physical and mental handicaps, and other individuals that political and economic elites forced to live by charity. What is more, Lenski argues that marginality was characteristic of expendables in agrarian society.²⁴

While this theory may have some explanatory value for the power dynamics undergirding the marginalization of people whom the dominant society constructs as other, the acceptance and use of it as valuable for understanding “the alien, the orphan, the widow, and the Levite” in “ancient Israelite society” and the connection to disabled people sets a dangerous precedent for the marking

²² Gowan, 343-344.

²³ Gowan, 344.

²⁴ Bennett, 63.

of groups of “different” people as a social problem. The history of disabled people provides an alternative conception of the place of so-called “expendables” in society. Another discussion assumes that “care” for vulnerable persons, including disabled people, in society is a commendable, universal human value:

Concern for the poor and marginal is sociologically defined as a value. Values are norms that form part of the social fabric of a particular culture. These values are significant for a society in many ways: providing cohesion, reducing conflict, etc. They are the oil that keeps a society running smoothly and efficiently. Values that provide little benefit or become obsolete usually are forgotten by the next generation. Concern for the vulnerable and poor is an example of a universal value. I know of no society, past or present, that has not, at least given lip service to this value. This particular value is usually deeply ingrained in the hearts of most people. From infancy until adulthood, it is continually inculcated and reinforced by most societies. Shame is usually reserved for those who make fun of the handicapped, who taunt the blind, who mock the orphan and the down-and-out. Praise is usually extended to those who give up their time to serve in soup kitchens or to participate in charities that help the sick and poverty-stricken. Altruism may even be a built-in mechanism that has evolved to promote the survival of the human species.²⁵

Disability theory provides a means to interrogate how this way of thinking is detrimental to the very groups of people it purports to help.

A small portion of the secondary literature begins to question the characterization of “the alien, the orphan, the widow, and the Levite” as poor; however, this typically occurs as a result of focusing upon one, perhaps two, of the members of the formula. Of widows, one study acknowledges the stereotypical understanding of widows in Mesopotamian and Israelite literature while another recognizes the rhetorical use of widows in Deuteronomy.²⁶ Norbert Lohfink recognizes the association of the widow with the Levite “who, according to

²⁵ Sneed, 501.

²⁶ Karl van der Toorn, “Torn between Vice and Virtue: Stereotypes of the Widow in Israel and Mesopotamia,” in *Female Stereotypes in Religious Traditions*, ed. Rita Kloppenborg and Wouter J. Hanegraff, SHR 66 (Leiden: Brill, 1995), 1-13. Roy L. Heller, “‘The Widow’ in Deuteronomy: Beneficiary of Compassion and Co-Option,” in *The Impartial God: Essays in Biblical Studies in Honor of Jouette M. Bassler*, ed. Calvin J. Roetzel and Robert L. Foster (Sheffield: Sheffield Phoenix Press, 2007), 1-11.

Deuteronomy, is a very honored person in Israel.”²⁷ In regard to aliens, the division between “Israelite” and “alien” as a twofold division within the biblical text is recognized as a “strategic device used by authors of biblical texts to construct difference contributing significantly to the realization and communication of hierarchal social relations in biblical cultic settings.”²⁸ Levites are credited with the particular perspective and formation of the book of Deuteronomy:

In the traditions emanating from Levite groups, it is they who define the boundaries of Israel’s self-understanding (ideologically, politically, culturally, and even geographically) throughout the course of its history. To gauge who and what “Israel” is depends on how one regard the role of Levites in relation to Israelite society.²⁹

Harold Bennett’s book-length study which treats the traditional members of the triad, rather than individual members, accepts their poverty and dependency in “ancient Israelite society” but also recognizes that what is often credited with their care may have contributed to their poverty:

The infrequent distribution of meat, vegetables, and fruits thus contributed to a critical level of deprivation and hardship for these vulnerable, socially weak individuals and forced them into exploitative relationships. Since these legal injunctions spread out the distribution of commodities to the *almānā*, *gēr*, and *yātôm*, it is possible to argue that these moral injunctions contributed to the plight of these types of persons in biblical communities.³⁰

Bennett concludes that “the cultic officials in the Yahweh-alone movement drafted Deut 14:22-29; 16:9-12, 13-15; 24:17-18, 19-22; and 26:12-15 in order to legitimize a public assistance program that guaranteed their material endowment.”³¹ Bennett maintains, however, that widows, orphans, and aliens were disenfranchised members of Israelite society; he simply seeks to more specifically locate the cause of their poverty within a period in Israelite history. Some of the

²⁷ Norbert Lohfink, “Poverty in the Laws of the Ancient Near East and of the Bible” *TS* 52 (1991): 34-50.

²⁸ Saul M. Olyan, *Rites and Rank: Hierarchy in Biblical Representations of Cult* (Princeton, N.J.: Princeton University Press, 2000), 63.

²⁹ Mark Leuchter, *The Levites and the Boundaries of Israelite Identity* (New York: Oxford University Press, 2017), 25.

³⁰ Bennett, 120.

³¹ Bennett, 127.

secondary literature begins to question the sustainability of food support from the infrequent distribution of food during the annual and triennial tithes. Together, these examples create space in which to consider that the motif may not point to stereotypically impoverished persons but to the motif's rhetorical use.

Methodology

This study makes use of three methodologies, historically informed literary criticism, critical disability theory, and food and foodways studies, to explore the function of the triad, “the alien, the orphan, and the widow” and its association with “the Levite” in deuteronomic law.

First, literary criticism shows that formulaic motifs like “the alien, the orphan, the widow, and the Levite,” point beyond their referents. Literary criticism considers literary features such as genre, theme, plot, characterization, and repetition of terms and phrases that indicate the internal emphasis of a text. This study engages in a close reading of the context in which the motif, “the alien, the orphan, the widow, and the Levite” appears and examines the intertextual links between this motif and references to food security in Deuteronomy. While literary criticism developed as a way to read stories in the Hebrew Bible, this study shows that literary criticism is a fruitful methodology for considering smaller portions of texts, such as individual laws and even phrases.

Second, this study brings the insights of disability studies, especially the creation of difference, as a lens through which to view this formulaic motif within the law collection in Deuteronomy. The recurrence of the theme of charity within the secondary literature provides a telling link to disability theory. The analogous use of disabled people as a modern-day equivalent to “the alien, the orphan, the widow, and the Levite” within biblical studies is not accidental but

the result of ingrained ideas about disability conceptualized in terms disabled people as the recipients of charity.

Lastly, the relatively new area of food and foodways studies examines the availability, social use, and symbolic role of food within cultures and their texts. Traditional understandings maintain that the laws in Deuteronomy form a charitable feeding program for this vulnerable groups of persons in an ancient society; however, the use of food in Deuteronomy is much more complex than a “food pantry” view allows. Deuteronomy is a book about food, and food studies provides a new perspective about the importance of food as a structuring theme within the book of Deuteronomy and the association of food with “the alien, the orphan, the widow, and the Levite.”

Taken together, these three methodologies allow for an alternative reading of “the alien, the orphan, the widow, and the Levite” in deuteronomic law. Literary criticism reveals important intertextual links between this motif and other sections within the book of Deuteronomy.

Disability studies allows consideration that the formulaic motif points to the separation and marking of the members of this motif as a construction of difference rather than a group of historically reconstructed persons. Food studies returns to those important intertextual links in Deuteronomy and their implications for a re-reading of the function of this formulaic motif in Deuteronomy and the book of Deuteronomy as a whole.

Literary Criticism

Through close reading, this study makes use of historically informed literary criticism in the tradition of American formalism to consider the rhetorical force of the formulaic motif in

Deuteronomy.³² According to American formalism, “a text is analyzed to interpret its themes, motifs, and messages (what it says), and to uncover its plot, characterization, setting, and imagery (how it says it). Formalism holds that a text must be understood from within rather than without.”³³ Further, literary criticism involves close attention to:

...the artful use of language, to the shifting play of ideas, conventions, tone, sound, imagery, syntax, narrative viewpoint, compositional units, and much else; the kind of disciplined attention, in other words, which through a whole spectrum of critical approaches has illuminated, for example, the poetry of Dante, the plays of Shakespeare, the novels of Tolstoy.³⁴

This motif in deuteronomic law calls for consideration of the context in which such repetition occurs. This study begins with a short, formulaic motif and considers its literary features and intertextual links within Deuteronomy that contribute to the book’s larger ideological goal.³⁵ Not only is the motif formulaic, but it is always connected to the theme of food and food security in Deuteronomy which, in turn, participates in an ideology of abundance throughout the text. A narrative approach frees this formulaic motif from the conceptual frame of poverty and charity.³⁶

The modern move toward a narrative approach in biblical studies is credited to James Muilenburg’s presidential address at the Society of Biblical Literature conference in 1968 where he explained:

What I am interested in, above all, is in understanding the nature of Hebrew literary composition, in exhibiting the structural patterns that are employed for the fashioning of a literary unit, whether in poetry or in prose, and in discerning the many and various devices by which the predication are formulated and ordered

³² Paul R. House, “The Rise and Current Status of Literary Criticism of the Old Testament,” in *Form Criticism and Beyond: Essays in Old Testament Literary Criticism*, ed. Paul R. House (Winona Lake, IN: Eisenbrauns, 1992), 5.

³³ Paul R. House, “Rise and Current Status,” 13.

³⁴ Robert Alter, *The Art of Biblical Narrative* (New York: Basic Books, 1981), 12.

³⁵ Jeremy Schipper demonstrates that the genre of law in the biblical text remains focused upon “the proper functioning of the cult.” Jeremy Schipper, “Disability,” *The Oxford Encyclopedia of Biblical Law* 1:195-199.

³⁶ Assnat Bartor argues that one can read casuistic law as narrative. See Assnat Bartor, “Reading Biblical Law as Narrative,” *Prooftexts* 32 (2012): 292-311. See also, Chaya Halberstam, “The Art of Biblical Law,” *Prooftexts* 27 (2007): 345-364.

into a unified whole. Such an enterprise I should describe as rhetoric and the methodology as rhetorical criticism.³⁷

Muilenburg sees planning and purpose in repetition in biblical texts: “The repeated words or lines do not appear haphazardly or fortuitously, but rather in rhetorically significant collocations.”³⁸ Following Muilenburg, this study argues that the formulaic grouping of “the alien, the orphan, the widow, and the Levite” is “rhetorically significant” and merits attention beyond an anachronistic, historical-critical reconstruction of something analogous to a modern-day welfare program. Although, Muilenburg asserts that literary analysis can “reveal to us the texture and fabric of the writer’s thought, not only what it is that he thinks, but as he thinks it,”³⁹ this study does not seek to recover authorial intent but engages in a reading of the surface structure of the text and what this structure might convey about the function of the formulaic reference “the alien, the orphan, the widow, and the Levite.”⁴⁰ The connection of this motif to the theme of food and the intertextual links to food consumption in Deuteronomy reveal “the repeated use of narrative analogy, through which one part of the text provides oblique commentary on another.”⁴¹ The connection between “the alien, the orphan, the widow, and the Levite” and food in Deuteronomy is indeed indirect, so much so that the complex interplay between this motif and food security has gone virtually unnoticed within biblical studies. A study of the repetition of words or phrases within Deuteronomy provides a complex reading that

³⁷ James Muilenburg, “Form Criticism and Beyond” *JBL* 88 (1969): 8.

³⁸ James Muilenburg, “Form Criticism,” 17.

³⁹ Muilenburg, “Form Criticism,” 7.

⁴⁰ David M. Gunn, “New Directions in the Study of Biblical Hebrew Narrative” in *Form Criticism and Beyond: Essays in Old Testament Literary Criticism*, ed. Paul R. House (Winona Lake, IN: Eisenbrauns, 1992), 414.

⁴¹ Robert Alter, “A Literary Approach to the Bible,” in *Beyond Form Criticism: Essays in Old Testament Literary Criticism*, ed. Paul R. House (Winona Lake, IN: Eisenbrauns, 1992), 184.

extends beyond the genre of narrative to include a close reading of texts within biblical law at the “micro-structural level.”⁴²

What we find, then, in biblical narrative is an elaborately integrated system of repetitions, some dependent on the actual recurrence of individual phonemes, words or short phrases, others linked instead to the actions, images, and ideas that are part of the world of the narrative we “reconstruct” as readers but that are not necessarily woven into the verbal texture of the narrative.⁴³

This study argues that biblical studies has created a narrative about “the alien, the orphan, the widow, and the Levite” as a group of vulnerable, impoverished members of ancient Israelite society to the exclusion of any other explanation for a motif that through its formulaic nature invites further scrutiny. However, repetition is also important for another reason, because “there is something about repetition that evidences a difficulty in the subject matter.”⁴⁴ Rather than the pat certainty that this formula refers to a group of impoverished people and the welfare system that maintained them, the repeated motif indicates a difficulty at the surface-level of the text not easily understood or resolved. Therefore, this study contends that the repetition of small units of text are narratively significant and can reveal the internal emphasis of a text. Small units of text become important to understanding the internal emphasis and intertextual links that the formulaic motif indicates. The grouping of “the alien, the orphan, the widow, and the Levite” indicates that the text warrants attention beyond the frame of impoverishment.

Since “the major challenge to biblical criticism mounted by literary criticism cannot be expressed in terms simply of a shift from ‘diachronic’ to ‘synchronic’ analysis but rather involves the question of normative reading,”⁴⁵ literary criticism creates a space in which to

⁴² Brent Strawn, “‘Israel, My Child’: The Ethics of a Biblical Metaphor,” in *The Child in the Bible*, ed. Marcia J. Bunge, Terence Fretheim, and Beverly Roberts Gaventa (Grand Rapids: Eerdmans, 2008), 217-219, 225.

⁴³ Robert Alter, *Art*, 95.

⁴⁴ Brent Strawn, “Israel My Child,” 239.

⁴⁵ David M. Gunn, “New Directions,” 415.

question certainties about this formulaic motif and consider what a seemingly unrelated discipline like disability studies might offer. Disability theory provides a means to interrogate the idea of normative reading, placing it at the center of a radical questioning of how difference is constructed. Disability studies allows a consideration that the formulaic motif in deuteronomic law constructs difference in the text, separating “the alien, the orphan, the widow, and the Levite” from the “you” the text addresses. The secondary literature does not question this construction, but accepts and perpetuates it, creating a narrative that widows, orphans, aliens, and Levites are differentiated from the larger Israelite population because they are poor.

Disability Studies

Critical disability theory questions the social construction of human difference by exposing the seemingly natural categories, “able-bodied” and “disabled,” as part of an ideology of ability that legitimates an ideal human embodiment. An ideology of ability places disabled in opposition to able-bodied, as if “disabled” is a self-explanatory category; however, the category “disability,” like humanity, contains a wide variety of physical and cognitive difference. For example, people with Down syndrome and Cerebral Palsy share no common characteristics other than establishing a category of non-normative bodies called “disabled.” Further, “able-bodied” human beings make use of a wide variety of technologies (lawnmowers, leaf blowers, elevators, escalators, food processors, forks and knives, bicycles, and automobiles) as natural extensions of the body to make life easier; however, when a person uses a cane, a device to pick up objects off of the floor, a wheelchair, or a motorized cart, that person is suddenly perceived as “disabled.”⁴⁶ The result is a discourse that reduces people with disabilities to negative characterizations, such

⁴⁶ Tobin Siebers, *Disability Theory*, Corporealities: Discourses of Disability, ed. David T. Mitchell and Sharon L. Snyder (Ann Arbor: University of Michigan, 2008), 31.

as “weak,” “vulnerable,” or “dependent,” which produces a constellation of negative ideas about disability that circulate in the collective conscious of society as an unexamined fear of disability. A Disability Studies approach makes possible thinking in new ways about “the alien, the orphan, the widow, and the Levite” in Deuteronomy by considering that the assumed poverty of this group, along with their demarcation, is constructed.

Food and Foodways Studies

Studies of food and foodways, which address food use and supply, as well as the symbolic function of food, provide crucial insight into the understanding of Levites, widows, orphans, and aliens.⁴⁷ Prominent themes in Deuteronomy in tandem with socio-symbolic references to food create an overriding rhetoric about abundance that hinges upon covenant loyalty. Literary criticism, coupled with insights from disability studies, will show how this group operates within Deuteronomy’s rhetoric of abundance to secure the positive fruits of covenant loyalty for all Israel.

⁴⁷ For studies of food and foodways in Greco-Roman society and the Mediterranean, see: Peter Garnsey, *Famine and Food Supply in the Graeco-Roman World: Responses to Risk and Crisis* (Cambridge: Cambridge University Press, 1988) and *Food and Society in Classical Antiquity*, KTAH (Cambridge: Cambridge University Press, 1999); John Wilkins, *Food in the Ancient World*, Ancient Culture (Oxford: Blackwell, 2006). John Wilkins, F. David Harvey, and Michael Dobson, *Food in Antiquity* (Exeter: University of Exeter Press, 1995). For studies of foodways in ancient Israel, see: Rolf P. Knierim, “Food, Land, and Justice” in *The Task of Old Testament Theology: Substance, Method, and Cases* (Grand Rapids: Eerdmans, 1995), 225-243; Eleonore Schmitt, *Das Essen in der Bible: Literaturethnologische Aspekte des Alltäglichen*, Studien zur Kulturanthropologie 2 (Münster: LIT, 1994); Ken Stone, *Practicing Safer Texts: Food, Sex and Bible in Queer Perspective*, Queering Theology (New York: T&T Clark, 2005); For a volume dedicated to food in the Hebrew Bible, see *Semeia* 86 (1999), specifically: Athalya Brenner and Jan W. van Henten, “Our Menu and What Is Not on It: An Introduction,” ix-xvi; Robert P. Carroll, “YHWH’s Sour Grapes: Images of Food and Drink in the Prophetic Discourses of the Hebrew Bible,” 113-31; Frank S. Frick, “‘Oil from Flinty Rock’ (Deuteronomy 32:13): Olive Cultivation and Olive Oil Processing in the Hebrew Bible: A Socio-Materialist Perspective,” 3-17; Victor H. Matthews, “Treading the Winepress: Actual and Metaphorical Viticulture in the Ancient Near East,” 19-32. For a historical study of food and foodways in ancient Israel, see Oded Borowski, *Daily Life in Biblical Times* (Atlanta: Society of Biblical Literature, 2003). Germane to this study is the work of Nathan Macdonald: *Deuteronomy and the Meaning of “Monotheism,”* FAT 2 (Tübingen: Mohr Siebeck, 2003), *What Did the Ancient Israelites Eat?: Diet in Biblical Times* (Grand Rapids: Eerdmans, 2008), and, especially for socio-symbolic function of food in the Hebrew Bible generally and Deuteronomy in particular, *Not Bread Alone: The Uses of Food in the Old Testament* (Oxford: Oxford University Press, 2008).

Most treatments of “the alien, the orphan, the widow, and the Levite” equate this group with “the poor” and assume that only impoverished people, as the most vulnerable in society, experienced food insecurity, hunger, and malnutrition. Discussions of food supply in antiquity assume that an agriculturally-based society—unlike a hunter-gatherer society—ensured adequate amounts of and access to food, yet recent foodway studies reveal evidence of widespread, prolonged malnutrition caused by long periods of food shortage.⁴⁸ These “episodic” food shortages occurred more frequently than famines, resulting in chronic hunger and malnutrition.⁴⁹ While literary texts rarely reveal chronic hunger and malnutrition as a part of everyday life, their treatment of food does express anxiety about food that indicates hunger resulting in undernourishment.⁵⁰ Deuteronomy’s frequent mention of food and foodstuffs, the book’s linking of food with deity and covenant loyalty, and its hope of an abundant future in the land reveal the text’s enormous anxiety about food scarcity. Deuteronomy recounts the Israelites’ experience of leaving “that great and fearful wilderness” (Deut 1:19), a place connected to the memory of hunger (Deut 8:2-3), with the expectation of arriving in a rich and fertile land (Deut 1:22-25) and eating until satiated (Deut 8:7-10). In addition to negative expressions of anxiety about food supply, Deuteronomy’s rhetoric about abundance, though positive, shows acute anxiety about food and an intense desire for food security. The prevalence of language and themes related to

⁴⁸ Peter Garnsey, *Famine and Food Supply*, 2-3. Garnsey distinguishes between famine and food shortage, maintaining that famines occurred much less frequently than shortages. He defines famine as “a critical shortage of essential foodstuffs leading through hunger to starvation and a substantially increased mortality rate in a community or region” and food shortage as “a short-term reduction in the amount of available foodstuffs as indicated by rising prices, popular discontent, hunger, in the worst cases bordering on starvation,” acknowledging that the line between food shortage and famine is unclear and requires evaluation and judgment based upon available, though not always sufficient, evidence (6). Nathan MacDonald in *What Did the Ancient Israelites Eat?* also finds evidence of episodic food shortages in ancient Israelite society.

⁴⁹ Peter Garnsey, *Food and Society*, 2. Although Garnsey specializes in Classical Antiquity, his distinction between famine and episodic food shortages is pertinent to a discussion of Israelite foodways. MacDonald brings these insights to bear upon ancient Israel in *What Did the Ancient Israelites Eat?*, 57-60.

⁵⁰ Garnsey, *Famine and Food Supply*, 6.

food in Deuteronomy indicates that, not only “the poor,” but also those who wrote, redacted, preserved, and transmitted Deuteronomy likely experienced food insecurity and chronic hunger. This anxiety about adequate food supply is also reflected in the formation and regulation of religious rituals and feasts for YHWH responsible for the fecundity of the land.⁵¹ The ritual use of food, distinct from food supply, production, and distribution, illustrates the “non-food” or symbolic use of food to demarcate social boundaries or forge communal bonds among different groups of people.⁵² In Deuteronomy, the association of “the Levite” with “the alien, the orphan, and the widow” in ritual observances that involve food serves a function other than sustenance. These rituals in Deuteronomy set apart “the alien, the orphan, the widow, and the Levite” from the larger Israelite community and obligate them to participate in a ceremony for the larger Israelite population.

Assumptions about food and the referents of the formulaic motif in Deuteronomy illustrate the problem of rhetoric versus likely reality, just as references to food in the biblical text belie the likely realities of the Israelite diet. The appearance of food items in Deuteronomy contradicts the reality of the Israelite diet by not taking into account the rhetorical and theological purpose of language about and descriptions of the land, the changing nature of the Mediterranean diet, and the assumption that the foods that are listed in the biblical texts were widely available and evenly distributed.⁵³ Evidence about the Israelite diet contradicts the idea that only “the alien, the orphan, the widow, and the Levite” were in need of food assistance,

⁵¹ Ibid., 3.

⁵² Ibid., 6-7.

⁵³ MacDonald, *What Did the Ancient Israelites Eat?*, 9. 10-12. According to MacDonald, evidence of food and food consumption includes texts, archaeology, comparisons to the ancient Near Eastern culture, anthropology, and scientific insights about land and nutrition. For MacDonald, current models of food production and consumption in ancient Israel pose further problems in assessing the available evidence, such as differing results produced by different models and preconceived notions about subsistence that preclude trade. See “Modeling the Israelite Diet” in *What Did the Ancient Israelites Eat?*, esp. 47-49.

because, “the population of Iron Age Israel generally suffered from an inadequate diet, poor health, and low life expectancy.”⁵⁴ The differences between the reality and the rhetoric of the Israelite diet show that food plays an integral role in Deuteronomy’s vision of covenant obligation and obedience. Much of the rhetoric about “the alien, the orphan, the widow, and the Levite” as the marginalized in society rests upon the implicit assumption that most Israelites ate well, and only this group, along with the poor, experienced hunger. The symbolic use and rhetorical force of food consumption in Deuteronomy require a rethinking of the current conceptualization of “the alien, the orphan, the widow, and the Levite.”

Chapter Outline

Chapter 1

Chapter one explores more fully the contribution of Disability Studies as a lens for rereading the formulaic reference to “the alien, the orphan, the widow, and the Levite” in Deuteronomy by exploring charity organization in the nineteenth century in the United States and the transition of work from local communities to cities in the industrial era. This study will show that charity organization did not conceptualize all disabled people in a singular way within the schematization of the “deserving” and “undeserving poor.” This is evidenced most strongly in the writings of the exemplar of the Charity Organization Society (COS) in the U.S., S. Humphreys Gurteen, an Episcopal priest, who immigrated to the U.S. from England, bringing the ideas of the COS with him.

The COS sought to coordinate all public assistance so that only those deemed truly “deserving” could receive support in the form of food, clothing, or money. Gurteen is revered as

⁵⁴ Ibid., 87.

the progenitor of modern social work but also recognized as promoting the ideas of Social Darwinism. Chapter one will show that, in fact, ideas characterized as “Social Darwinism” began with Charles Darwin, himself. Since “the alien, the orphan, the widow, and the Levite” are constructed as objects of charity and the laws in Deuteronomy as a model for how to treat those constructed as “less fortunate” in society, a study of the construction of charity in the nineteenth century in the United States studies serves as a valuable lens for considering the rhetorical nature of this formulaic motif within deuteronomic law.

Chapter 2

Chapter two will explore the current construction of “the alien, the orphan, the widow, and the Levite” in secondary literature by surveying treatments, individually and in their various groupings, of each member of this motif and their relation to “the household” in “ancient Israelite society.” It is well-recognized that widows remain an “understudied” group.⁵⁵ Many treatments rely upon narratives about widows to aid in understanding individual biblical laws, discounting the counterevidence in narratives about widows who are not poor or even wealthy. For example, some studies use the story of the Tekoan woman in 2 Samuel 14:1-20, who only acts a widow at Joab’s behest, as evidence that widows were poor. Rather than the death of a woman’s husband, poverty becomes the defining factor of widowhood.⁵⁶ In this line of argumentation, rich widows are not “real” widows; however, some studies begin to question the

⁵⁵ Frank S. Frick, “Widows,” 143; Roy L. Heller points out that widows likely comprised a quarter of the “total number of women above the age of 18,” yet they receive little attention in biblical studies. See Roy L. Heller, “‘The Widow’ in Deuteronomy,” 1. Martha T. Roth, “The Neo-Babylonian Widow” *JCS* 43 (1991): 1.

⁵⁶ Pnina Galpaz-Feller, 232-233; Bennett, 37.

construction of widows as singularly impoverished and provide a solid foundation from which to question the overriding construction of widows as vulnerable and poor.⁵⁷

Although work about children in the Bible is a growing field in biblical studies, orphans remain the least studied member of the motif.⁵⁸ Research of children in the biblical text range from reconstructing children's lives to a hermeneutical device for reading biblical texts.⁵⁹ Current studies of children in the Bible consider the role of children in the household, question the divine justice from the perspective of non-Israelite children, and explore the parent-child relationship as a metaphor of relationship with YHWH.⁶⁰ Deuteronomy makes significant use of motifs that involve children, yet states nothing about orphans outside of the formulaic motif within deuteronomic law.

Studies of aliens and Levites are much more prolific than those of widows and orphans and provide more opportunity to question the conceptual frame of poverty. Research of "the Levite," which considers Levitical origins and identity, runs the gamut from poor and dependent to prosperous. Levites have been long understood as second-class priests, subordinate to the Aaronic priesthood, but, in Deuteronomy, the Aaronic priesthood is virtually absent from the text. Levites serve in priestly roles. There is also little agreement as to the identity of the alien.

⁵⁷ Heller, "'The Widow' in Deuteronomy;" Carolyn Leeb, "The Widow: Homeless and Post-Menopausal" *BTB* 32 (2002): 160-162; Martha T. Roth, "The Neo-Babylonian Widow" *JCS* 43/45 (1991-1993): 1-26. Karl van der Toorn, "Torn between Vice and Virtue."

⁵⁸ For an early study, see, Israel Lebediger, "The Minor in Jewish Law" *JQR* (1916): 459-493.

⁵⁹ Patrick D. Miller, "That the Children May Know: Children in Deuteronomy" in *The Child in the Bible*, ed. Marcia J. Bunge, Terence Fretheim, and Beverly Roberts Gaventa (Grand Rapids: Eerdmans, 2008), 45-62; *The Children of Israel: Reading the Bible for the Sake of Our Children* (Nashville: Abingdon, 2003).

⁶⁰ A. James Murphy, "Children in Deuteronomy: The Partisan Nature of Divine Justice," *BibInt* 20 (2012): 1-15; Naomi Sternberg, *The World of the Child in the Hebrew Bible*, Hebrew Bible Monographs 51 (Sheffield: Sheffield Phoenix Press, 2013; Strawn, "'Israel, My Child,'" 103-140.

Some state unequivocally that the alien is always a foreigner while others base the alien's status on land ownership and assert that both foreigners and landless Israelites are aliens.⁶¹

Chapter 3

Chapter three will explore the rhetorical significance of “protection of the vulnerable” beginning with the references to widows and orphans in ancient Near Eastern inscriptions and texts. Much work already exists about widows and orphans in law collections prior to the formation of biblical law; however, no study approaches the “protections” of widows and orphans from the perspective of their rhetorical function and ideological value. This study will show that references to widows and orphans—and later aliens and Levites—are part of a larger ideological goal in the service of royal ideology whether the leader is a god or a human king. In Mesopotamian texts, virtuous gods and kings care for the most vulnerable in society. In like manner, the portrayal of YHWH in Deuteronomy as a god who looks out for the vulnerable in society has a long history; however, Deuteronomy's innovation is to take this responsibility and conceptualize it as the responsibility of the entire community.

Most secondary literature about biblical law that deals with widows, orphans, aliens, and Levites does not engage current theories of ancient law.⁶² When the members of the motif are the subject of a law, that law is simply treated as authoritative and operative without questioning the underlying beliefs or assumptions on which these decisions rest. Further, these studies do not

⁶¹ For the alien as foreign, see Saul M. Olyan, *Rites and Rank*, 68-69, 76. For an Israelite as an alien, see Gershon Galil, “The Hebrew Inscription from Khirbet Qeiyafa/Neta'im: Script, Language, Literature and History,” *UF* 41 (2009): 227 and Thomas M. Horner, “Changing Concepts of the ‘Stranger’ in the Old Testament,” *ATHR* 42 (1960): 49.

⁶² Joshua Berman, “The History of Legal Theory and the Study of Biblical Law,” *CBQ* 76 (2014): 19-39. Dale Patrick, *Old Testament Law* (Atlanta: John Knox, 1985). Bruce Wells, “What is Biblical Law?: A Look at Pentateuchal Rules and Near Eastern Practice,” *CBQ* 70 (2008): 223-243.

fully consider the role of the motivation clauses that follow the use of “the alien, the orphan, the widow, and the Levite” deuteronomic law.⁶³ There is, however, some tension in the secondary literature between the idea of law as an aid to “the alien, the orphan, the widow, and the Levite” and law as social control of these groups of people within Israelite society.

Again, disability theory provides a useful perspective on the dynamic of differentiating and objectifying a particular group of people in the service of the larger, dominant group that claims the center. It is clear in Deuteronomy, as a speech of Moses addressed to the Israelite people, that “the alien, the orphan, the widow, and the Levite” are not only set apart from the addressee “you” throughout the law collection but also abstracted through their singularization within the formulaic motif. The motif situates them as objects of the actions of Israelites; they are in some sense “not Israel.” The motif points to their rhetorical use, not as subjects but objects, which accomplishes covenant loyalty in order to remain in the land and to secure food production by ensuring continued fertility of the land.

Chapter 4

Chapter four explores the symbolic function of food imagery in Deuteronomy in relation to “the alien, the orphan, the widow, and the Levite.” Deuteronomy contains a developed abundance rhetoric which works in tandem with the formulaic motif in Deuteronomy to recast deuteronomic concerns about land and food supply.⁶⁴ While this study does not engage in historical reconstruction or seek to locate actual widows, orphans, aliens, and Levites within a

⁶³ Berend Gemser, “The Importance of the Motivation Clause in Old Testament Law,” *VTSup* 1 (1953). Rifat Sonsino, *Motive Clauses in Hebrew Law: Biblical Form and Near Eastern Parallels*, SBLDS 45 (Chico, CA: Scholars Press, 1980). Christiana van Houten, *The Alien in Israelite Law*, 78-79, 96, 168-169.

⁶⁴ The work of Nathan MacDonald is especially important because his work undercuts the false dichotomy running through the secondary literature that only a small part of the Israelite population may have needed food support. See note 54.

particular period in Israel's history, the historical evidence that is available indicates that most Israelites experienced extensive malnutrition. This study will show that the altruistic ideal of "the alien, the orphan, the widow, and the Levite" as objects of charity on the part of a larger, benevolent Israelite society is read into the text rather than derived from it and that the idea of deuteronomic law as a humanitarian law collection rests upon a spurious foundation. Further, this chapter will engage in a narrative-critical reading of the formulaic motif, present the non-formulaic occurrences of the members of the motif, and consider significant omissions of the members of this motif if, in fact, deuteronomic law provided charitable support. Through intertextual links, the context in which "the alien, the orphan, the widow, and the Levite" appear connects this motif to pervasive themes of food and food security in Deuteronomy.

This chapter will also consider non-formulaic occurrences of references to individual members of the motif, as well as the significant omissions. The non-formulaic references to (Deut 10:17-19; 24:17; and 26:1-11) connect the idea of "justice," *מִשְׁפָּט*, to widows, orphans, aliens and Levites that the secondary literature generalizes in its treatments of the formulaic motif. Further, the small credo in Deut. 26, which presents archetypal Israelite identity at the offering of the first fruits, contains a non-formulaic reference to Levites and aliens who are commanded to rejoice together. If, as the secondary literature supposes, care of "the alien, the orphan, the widow, and the Levite," was of fundamental importance in "ancient Israelite society," then the omission of "the alien, the orphan, the widow, and the Levite" from the remission of debts (Deut 15:1-2) and Passover observance (Deut 16:1-8) stands as a glaring omission. This chapter will show the distinct differences between the formulaic and non-formulaic references to widows, orphans, aliens, and Levites in deuteronomic law and the

implications of the omission of the members of the motif from texts where one would expect to find them.

Conclusion

The literary motif, “the alien, the orphan, and the widow” which occurs in eight verses in Deuteronomy (Deut 14:29; 16:11, 14; 24:19-21; and 26:12-13), presents them in terms of an individualized, stylized formula: **וְהַגֵּר וְהָיְתוֹם וְהָאַלְמָנָה**. Five of the eight verses in which this formulaic motif appears associate “the Levite,” **הַלֵּוִי**, in the same singular, fixed form with widows, orphans, and aliens (Deut 14:29; 16:11, 14; and 26:12-13). Every instance of this formulaic motif—whether it includes the Levite—appears within the context of food consumption: agricultural festivals, (Weeks and Booths; Deut 16:11, 14), the gleaning laws (Deut 24:19-21), and the annual and third-year tithes (Deut 14:28-29 and 26:12-13). The theme of food and food consumption is integral to understanding the literary function of the formulaic motif, but not in the way the secondary literature traditionally maintains. This literature, working from the perspective of historical-critical reconstruction, comprehensively views this motif as an indicator of actual persons and their socio-economic situation in “ancient Israelite society” and assumes that this group of people was overwhelmingly poor, landless, and without kinship support. This study, using literary criticism and the insights of disability studies in conjunction with Deuteronomy’s pervasive concern about food security, contends that this formulaic motif serves a different rhetorical function in Deuteronomy and interrogates its hermeneutical value as an appropriate model for altruism.

CHAPTER 1

Introduction

On October 18th, 1988, Paul Longmore burned his newly published book, *The Invention of George Washington*—a book that took him ten years to write and by which he earned his PhD—in front of the federal building in downtown Los Angeles.¹ A post-polio adult, the restrictions of government programs upon “unearned” income through book royalties would potentially endanger the government-based aid he required to stay alive and maintain an independent life. At that time, if Longmore earned more than the Substantial Gainful Activity amount of \$300 per month established by the Social Security Administration, he would no longer be considered disabled and become ineligible for assistance, which at that time equaled about \$20,000 per year, much lower than the cost of living in a nursing home, where many disabled people are consigned to live.² The income restrictions that Longmore faced have their roots in poor relief that required a person to be completely disabled to qualify for assistance.³

On of July 26th, 2019, the Americans with Disabilities Act or the ADA turned twenty-nine years old. The culmination of the Disability Rights Movement, the ADA guarantees basic civil rights by prohibiting “discrimination against people with disabilities in employment, transportation, communication, and governmental activities.”⁴ Yet, over ninety-three percent of

¹ Paul K. Longmore, “Why I Burned My Book,” in *Why I Burned My Book and Other Essays on Disability*, American Subjects, ed. Robert Dawidoff (Philadelphia: Temple University Press, 2003), 252.

² Longmore, *Why I Burned My Book*, 236. Consequently, the Substantial Gainful Activity rate today is \$1,130 per month or \$13,560 annually; a full-time, first-year teaching position would pay much more.

³ *Ibid.*, 237.

⁴ Rebecca Raphael, *Biblical Corpora: Representations of Disability in Hebrew Biblical Literature* (New York: T&T Clark, 2008), 8 note 10: <http://www.dol.gov/dol/topic/disability/ada.htm> accessed 10/03/2015.

the cases brought to court by people with disabilities are not decided in their favor.⁵ Further, statistics show that people with disabilities remain chronically un- and under-employed, and disabled people are three times more likely to live below the poverty line.⁶ In the last thirty years, employment rates dropped only 2.5% for non-disabled people, but 12% for disabled people. In spite of these statistics, the ADA remains a powerful symbol of victory, recognition, and hope for people with disabilities throughout the United States.⁷ At nearly the same time as the ratification of the ADA, Disability Studies (DS) emerged as a field of critical inquiry, questioning the construction of human difference and the seemingly natural categories, “able-bodied” and “disabled.” This chapter, which examines the rise of charity organization in the United States, will show that current negative conceptualizations of disability have their roots in a complex of ideas about normative, productive bodies and minds that coalesced in nineteenth century America. This study will also highlight how this time period served as a crucible for a few enduring, positive aspects for disabled peoples’ lives and that impoverished people, especially women, resisted the intense scrutinization of their lives, the pressures to work outside of the home, and the institutionalization of their disabled family members, especially their children.

⁵ Ruth Colker, “The Americans with Disabilities Act: A Windfall for Defendants,” 34 *Harvard Civil Rights-Civil Liberties Law Review* 34 (1999): 99-100.

⁶ For example, the employment rates for people without disabilities experienced a slight increase from 72.4% to 74.9% from 1981 to 2013; however, employment rates for people with disabilities decreased from 24.6% to 12.9% during the same time period. While the median household income for people without disabilities has increased \$5,000 from 1980 to 2013, people with disabilities have experienced a \$5,000 decrease in median household income. The percentage of people with disabilities living below the poverty line was 31.9% in 2013 compared to 11.9% of people without disabilities. Von Schrader, S. and Lee, C. G. (2015). *Disability Statistics from the Current Population Survey (CPS)*. Ithaca, NY: Cornell University Employment and Disability Institute (EDI). Retrieved October 4, 2015 from www.disabilitystatistics.org

⁷ At the Ed Roberts Campus in San Francisco, California, the acronym “ADA” appears on many tiles painted and submitted by people with disabilities across the United States that make up the Disability Mural now permanently housed there.

1.1 Charity Organization

In the United States, before the rise of the medical industry, charity presumably governed societal customs toward disabled people, who, no longer cared for by their families, were institutionalized and commended to charitable care alone; however, the concept of charity is much more complex than this presumption allows. The disability history work of Paul Longmore stands as one of the few in-depth treatments of charity in the U.S. Although Longmore's work focuses upon twentieth-century intersections of charity and disability, especially the telethon, his work illustrates two important dynamics for this study. First, as Longmore explains, "Telethons offer occasions for individuals to act upon genuinely compassionate regard for their fellow human beings, but this 'caring' is inextricably intertwined with the social stigma inscribed on people with disabilities."⁸ The very practice which seeks to better lives of disabled people—actually, disabled *children*—played a part in their marginalization. Telethons emphasized the otherness of disabled children, marking them as different from able-bodied children. Second, Longmore points out the ritualistic nature of the telethon: "People with disabilities are ritually defined as dependent on the moral fitness of nondisabled people. While takers repudiate their duty to these helpless neighbors, the compassion of givers toward 'the less fortunate' publicly verifies the givers' moral standing."⁹ Leading up to the nineteenth century, charity served dual roles of religious observance and social control: "as a path to salvation, charity would allow the wealthy to gain salvation through the care of those less fortunate than themselves; as an economic strategy, charity would calm potential social rebellion by redistributing wealth from

⁸ Paul K. Longmore, "Conspicuous Contribution and American Cultural Dilemmas: Telethon Rituals of Cleansing and Renewal," in *The Body and Physical Difference: Discourses of Disability*, ed. David T. Mitchell and Sharon L. Snyder (Ann Arbor: University of Michigan Press, 1997), 134; and *Telethons: Spectacle, Disability, and the Business of Charity*, ed. Catherine Kudlick (Oxford: Oxford University Press, 2016). Snyder and Mitchell reiterate the ritualistic nature of charity in Longmore's work: Sharon L. Snyder and David T. Mitchell, *Cultural Locations of Disability* (Chicago: The University of Chicago Press, 2006), 41.

⁹ Longmore, "Conspicuous Contribution," 136.

one class to another.”¹⁰ The connection Longmore identifies between ritual and the practice of charity resonates with this study because the charity organization movement was a largely Protestant phenomenon rooted in organized religion.¹¹ Although the charity organization movement constructed the disabled body as “a static signifier of human insufficiency” and “one of the foundations on which the nineteenth century charity system grounded its interventions for the ‘needy,’”¹² the disabled body simultaneously occupied a predominant and a liminal place in charity organization.

Treatments of charity organization in the U.S. range from admiration to condemnation; however, the impact of charity organization on the lives of disabled people remains virtually unexamined:

Accounts by social historians of the rise of this new U.S. charity system have provided important analyses of this period’s practices and attitudes toward charity. Little attention has been paid, however, to the fate of those impoverished as a result of physical and cognitive impairments (congenital or acquired). This is true even among those historians who recognize the class of beggars as a diverse, disenfranchised social constituency.¹³

This study argues that the charity organization movement relegated many disabled people to the margins of economic existence, and at the same time, bolstered the cultural capital of non-disabled people as the benefactors of these less fortunate members of society. The concept of charity merits further study for three reasons. First, the medicalization of disability is directly rooted in ideas about who deserved charitable assistance in nineteenth-century America:

With morality and religious virtue identified as the necessary ingredients to resolve poverty, physical capacities became the only viable excuse for exemption from the requirement of labor for all citizens. This renewed emphasis on bodily incapacity as the primary adjudicator of membership in the “deserving poor”

¹⁰ Snyder and Mitchell, *Cultural Locations*, 53.

¹¹ Katz addresses the evangelical roots of charity and the differences between the largely Protestant response of socially engineering and the response of the Catholic church: Michael B. Katz, *In the Shadow of The Poorhouse*, (New York: Basic Books, 1986), 58-62.

¹² Snyder and Mitchell, *Cultural Locations*, 51

¹³ *Ibid.*, 42.

precipitated the rise of medical professionals, who began to apply empirical evaluations of the incapacitated body as the basis for a scientifically authorized, deserving charitable recipient.¹⁴

Second, this time period produced some of the most negative, damaging conceptualizations about disability and disabled bodies:

The nineteenth century oversaw a transition from practices of community responsibility for poverty and disability. An increasingly centralized, national economy gave rise to intrusive managerial attitudes toward pauperism and diverse human capacities and appearances. The seventeenth and early eighteenth centuries had tended to approach human differences from a religious standpoint of the “strong” taking care of the “weak.” In contrast, the nineteenth century approached dependency as a disservice to a nation that must invest in its manifest destiny.¹⁵

Third, the charity organization movement’s conceptual framing of disability in the nineteenth century persists today in that the ability to conform to industrialized modes of work still determines to what extent disabled people may participate in the economic system. Disabled lives remain subject to intense scrutinization and suspicion.

1.2 S. Humphreys Gurteen and Charity Organization in the U.S.

The Rev. S. Humphreys Gurteen, an Englishman who immigrated to the U.S., founded the first COS in the U.S. in 1877 in Buffalo, New York, where he served as associate rector of Saint Paul’s Cathedral.¹⁶ He compiled his earlier works to publish a book four years later entitled *A Handbook of Charity Organization* which became the compendium of charity organization ideas and practices. Charity organization societies did not provide any kind of charitable assistance. Rather, the charity organization movement sought to establish societies in order to

¹⁴ Ibid., 61.

¹⁵ Ibid., 12.

¹⁶ For key dates in Gurteen’s life, see Verl S. Lewis, “Stephen Humphreys Gurteen and the Origins of American Charity Organization,” *Social Service Review* 40 (1966).

regulate charitable expenditures by coordinating the relief efforts of both public and private agencies and investigating and keeping records of persons requesting assistance. Charity organization subjected poor people themselves, as well as their homes and lives, to intense scrutiny and oversight. For those applying for relief, “friendly” visitors, typically middle- to upper-middle class women, could question their “neighbors, extended family, employers, church leaders, and their children’s teachers.”¹⁷ Charity Organization Societies tasked friendly visitors with visiting the poor to impart virtue, make suggestions, and compile reports or “dossiers” about the family. In turn, these reports “were then made available not only to relief agencies but also to prospective employers, landlords, banks, “charitably interested individuals,” and even the police”—in other words, anyone—a fact that strained the relationships between “the needy family and its self-invited ‘friend.’”¹⁸ The movement was characterized by an enormous amount of suspicion of poor people, viewing their impoverishment as a moral failing.

Charity organization societies in the U.S. grew at exponential rates from the founding of the first COS to the turn of the twentieth century.¹⁹ Although primarily a northeastern U.S. phenomenon, charity organization societies spread as far west as California and as far south as Texas.²⁰ By 1880, thirty-one charity organization societies were operating in the U.S., and by 1893, one hundred U.S. cities boasted a COS; this number continued to increase from 1880 –

¹⁷ Brent Ruswick, “Just Poor Enough: Gilded Age Charity Applicants Respond to Charity Investigators,” *Journal of the Gilded Age and Progressive Era* 10 (2011), 268.

¹⁸ Paul Boyer, *Urban Masses and Moral Order in America, 1820-1920* (Cambridge: Harvard University Press, 1978), 153.

¹⁹ The first identified instance of charity organization, the Germantown Relief Society, occurred earlier in 1873, but it was a smaller, localized effort in Philadelphia to deal with a major downturn in the U.S. economy. One year later, the Bureau of Charities in New York City also attempted to put charity organization into practice, but its operation was brief. See, David M. Schneider and Alfred Deutsch, *The History of Public Welfare in New York State 1867-1940* (Chicago: The University of Chicago Press, 1941), 46.

²⁰ Thomas C. Henthorn, “Faith, Philanthropy, and Southern Progress: Social Policy and Urban Development in Houston, Texas, 1890-1930” (PhD diss., Michigan State University, 2009); A Nation’s Need—Good and Well Trained Mothers”: Gender, Charity, and the New Urban South,” *Frontiers: A Journal of Women Studies* 32 (2011): 71-101; “Building a Moral Metropolis: Philanthropy and City Building in Houston, Texas,” *Journal of Urban History* 44 (2018): 402-420.

1910 to nearly three hundred.²¹ However, charity organization practices were not simply accepted by the people it sought to control. As COS intake forms attest, there was a large amount of resistance on the part of disabled people and their caretakers to the dehumanizing effects of charity organization.²² Further, the COS was not a success by its own standards. No COS ever attained its goals of coordinating all charitable efforts in a single city and ending all outdoor relief, and many were quickly absorbed by existing relief organizations. It was a movement that declined as quickly as it grew.²³

Despite Gurteen's notoriety within the charity organization movement, he remains an enigmatic figure. In fairness, Gurteen's life is difficult to trace—his personal life even more so—and the variations in the works that do mention him indicate that relatively little is known about Gurteen apart from his founding the Buffalo COS and his employment-related relocations. For instance, sources which mention Gurteen disagree about the dates of important events in his life or rely upon his own writings to reconstruct Gurteen's life. Only one source mentions his marriage to Edith Carpenter, the daughter of William N. Carpenter, a prominent Detroit businessman, and only one other source points out that the COS Gurteen founded was absorbed

²¹ James J. McFadden, "Disciplining the Frankenstein of Pauperism": The Early Years of Charity Organization Case Recording, 1877-1907" *Social Service Review* 88 (2014): 471 n. 2. Paul Boyer, *Urban Masses and Moral Order in America, 1820-1920*, (Cambridge: Harvard University Press, 1978), 146. Stephen T. Ziliak, "Self-Reliance before the Welfare State: Evidence from the Charity Organization Movement in the United States," *The Journal of Economic History* 64 (2004): 435.i

²² Emily K. Abel, "Medicine and Morality: The Health Care Program of the New York charity Organization Society," *Social Service Review* 71 (1997): 634-651 and "Valuing Care: Turn-of-the-Century Conflicts between Charity Workers and Women Clients," *Journal of Women's History* 10 (1998): 32-52. Although Abel writes from a medical history perspective, she treats not only the intersection of gender roles and charity organization but also the prevalence of disability among people who appeared on New York COS rolls.

²³ Michael B. Katz, *Shadow of The Poorhouse*, 80-81. Katz, in fact, considers charity organization a failure "in every major dimension" in that they never managed to effectively partner with existing relief organizations, abolish outdoor relief, attract enough volunteers for "friendly" visiting, cope with the enormous amount of need created by the economic downturns in the U.S. economy, or bridge the ever-widening gap between the wealthy and impoverished classes.

just nine years later by the Relief and Aid Society in Buffalo.²⁴ Few sources emphasize that the charity organization movement was a short-lived phenomenon.

Stephen Humphreys Villiers Gurteen was born in England in June of 1836. His father, a Presbyterian minister, died less than a year after Gurteen was born. Gurteen emigrated from England sometime between receiving his degree from Cambridge in 1863 and his first post as a diaconate minister at Trinity Church in Geneva, New York in 1874; however, the details of his life up to that point remain unclear.²⁵ The few works that do treat Gurteen's personal and professional life range from vague to hagiographic:

Gurteen's genius flashed and dimmed as he moved from career to career. It glowed most brightly in his brief appearance upon the philanthropic scene, where he made important contributions to the ideology of charity organization—hence to the philosophical conflicts that comprise the uneasy basis for modern social welfare.²⁶

Treatments of charity organization valorize its contributions to the professionalization of the burgeoning field of social work.²⁷

What is certain about Gurteen's life is that he immigrated to the U.S. at a tumultuous time in the young nation's history. Within one hundred years of declaring independence from British

²⁴ For the one source that mentions Gurteen's marriage to Edith Carpenter, see Lewis, "Stephen Humphreys Gurteen," 200. The only source that mentions the failure of the Buffalo COS is the article by Robert Hunter; see, Robert Hunter, "The Relation Between Social Settlements and Charity Organization," *Journal of Political Economy* 11 (1902), 77.

²⁵ Verl S. Lewis, "Stephen Humphreys Gurteen," 192. Lewis states, "This paper attempts to rectify long neglect of a once-prominent pioneer figure in American social welfare, to counter misinformation with such facts as have been brought to light, and to clarify his role in charity organization."

²⁶ Lewis, "Stephen Humphreys Gurteen," 190. A similar treatment exists, though more pronounced, of Josephine Shaw Lowell: Lloyd C. Taylor, "Josephine Shaw Lowell and American Philanthropy," *New York History* 44 (1963): 336-364, esp. 343: "The real significance of the achievement of Josephine Lowell lay not so much in the fact that she succeeded where other failed; rather, that through the system of charity organization she provided the means to combat the most challenging welfare problem in the United States." For examples of vague treatments of Gurteen's life, see: Michael B. Katz, *Shadow of The Poorhouse*, 72-79. Schneider and Deutsch, *Public Welfare*, 46.

²⁷ Charles A. Ellwood, "Sociology and Charity: The 1899 Lectures," *Mid-American Review of Sociology* 13 (1988): 21-30. Robert Hunter, "The Relation between Social Settlements and Charity Organization," *Journal of Political Economy* 11 (1902): 75-88; Frank Dekker Watson, *The Charity Organization Movement: A Study in American Philanthropy* (New York: Macmillan, 1922). This tradition continues in more recent treatments of charity organization: Lewis, "Stephen Humphreys Gurteen." Taylor, "Josephine Shaw Lowell." Walter I. Trattner, *From Poor Law to Welfare State: A History of Social Welfare in America* (New York: Free Press, 1974).

rule, the U.S. became embroiled in the Civil War (1861-1865), followed by the harsh Winter of 1865. Ten years later, Gurteen moved to Buffalo, New York in November of 1875 during what is known as the Long Depression (1873-1879/1896), a depression prompted by “the failure of the financial house of Jay Cooke and Company September, 1873, and the collapse of railroad speculation which had reached frenzied proportions following the Civil War” and culminated in “the great railroad strikes of 1877.”²⁸ What Gurteen perceived as pauperization and fraud on the part of the poor were the effects of a still young, deeply divided country and the social and economic aftermath of war, climate, and economic forces over which the people most deeply affected had no control. The effects of over-speculation in the railroad market deeply impacted Buffalo, leading to widespread job-loss. Gurteen was already well-established in Buffalo by the time of the Great Railroad Strike, characterized as a long, violent strike that shut down the city. Gurteen had previously witnessed the Draft Riots in New York in 1863, and the intensity of the railroad strike seemingly confirmed Gurteen’s fears of the violence of the so-called lower classes.²⁹ Gurteen was not impoverished like the people he so zealously denounced. Although a late career change (Gurteen was thirty-nine years old when he was ordained as an Episcopal priest), Gurteen’s occupation and, later, marriage to Edith Carpenter likely shielded him from the desperation and want experienced by large numbers of people. Gurteen’s marriage to Edith also indicates that he moved in middle- to upper-class social circles. Her economic resources and social standing afforded Gurteen security—and perhaps even leisure—throughout the rest of his life.³⁰ Still, there is evidence that his career in ministry was not a smooth one; from the time of

²⁸ Schneider and Deutsch, 35. See also, McFadden, “Frankenstein of Pauperism,” 470.

²⁹ Lewis, 192.

³⁰ Ibid., 201. Lewis assumes that Edith inherited part of her father’s estate at his death in 1885; however, per her father’s will, the estate was not divided among William and Amanda’s three children until five years after his wife’s death in 1890. According to William N. Carpenter’s probate documents, his estate was worth three hundred and fifty thousand dollars in 1885.

his ordination, Gurteen held five positions in the next twelve years. With the vicissitudes of age, Gurteen experienced declining health, yet the reconstruction of the last years of his life is hazy at best.³¹ One source states that he left Ohio due to the ill effects of climate on his health and moved to Davenport, Iowa where he lived the rest of his life.³² Another states that he retired to Conanicut Island in Rhode Island where he died.³³

Although Gurteen's name is well-known in connection with the history of charity organization, he is not considered one of the great minds tackling the problem of American poverty in the last quarter of the nineteenth century.³⁴ Nor was charity organization a new idea:

In addition to the English precedents, a number of Americans—Boston's Joseph Tuckerman, Cincinnati's Thomas H. Perkins, New York's Robert Hartley, and others—had earlier urged comprehensive moral-control strategies almost identical to those of the charity organization enthusiasts: the division of the city into districts; the compilation of dossiers on everyone requesting relief; and the use of middle-class visitors to approach the uplift task on a family-by-family basis.³⁵

Gurteen did not run the COS he inaugurated; he tasked his friend, member of his congregation, and local railroad executive, T. Guildford Smith, with the daily operations of the Buffalo COS.³⁶ Gurteen never moved beyond the idea of the "pauperization" of impoverished people, the assumption that there were enough jobs for those willing to work, and that any kind of assistance morally ruined those who received it. His crowning achievement was a compendium of his prior writings. As a writer, Gurteen reused large swaths of his own writing and liberally borrowed from other people's work. From 1877-1882, Gurteen produced a handful of publications which culminated in his compilation, *A Handbook for Charity Organization* in 1882. In order to build

³¹ Katz attributes Gurteen's declining health to the climate in Toledo, Ohio where he took a job as the rector of Trinity Church. Katz, *Poorhouse*, 73. Lewis, "Stephen Humphreys Gurteen," 201.

³² Katz, *Shadow of the Poorhouse*, 73.

³³ Lewis, "Stephen Humphreys Gurteen," 201.

³⁴ For the philosophical roots of COS thinking and its detractors, see A. W. Vincent, "The Poor Law Reports of 1909 and the Social Theory of the Charity Organization Society," *Victorian Studies*, 27 (1984): 345-346.

³⁵ Paul Boyer, *Urban Masses*, 145.

³⁶ McFadden, "Frankenstein of Pauperism," 477.

support for a COS in Buffalo, Gurteen delivered a series of sermons in November of 1877 at St. Paul's Cathedral, published under the title *Phases of Charity*, to explain the concept of charity organization and elicit support for an organization in Buffalo. Gurteen delivered another series of sermons one year later in 1878 and published under separate cover as *Provident Schemes*. In 1880, he delivered an address to the State Board of Charities meeting in New York entitled *What is Charity?* which was printed in the annual report of that meeting and under separate cover in 1881. The two series of sermons make up nearly half of *Handbook*, which he incorporated nearly verbatim. Gurteen actually begins *Handbook* with the opening to the second sermon series from 1878, *Provident Schemes*, retitling it "Historical Retrospect."³⁷ To make use of *Phases of Charity* in *Handbook*, Gurteen made some minor changes, such as altering the start date of the London COS from "nine years ago" to "eleven years ago" to account for the time between delivering his first set of sermons and incorporating them into *Handbook*.³⁸ Other changes, however, reflect Gurteen's growing commitment to COS ideals and to the COS as a "non-sectarian" organization, ironic considering Gurteen's vocation. Gurteen does, in fact, make use of a small selection of biblical texts to formulate his argument, appealing first to Pauline thought from Romans 14, a text that begins with concerns about clean and unclean foods as an expression of faith. Gurteen seeks to counter the idea that Paul would condone "indiscriminate charity," by stating of Paul, "He warns these Christians in Rome not to allow anything, however good in itself, however good in the intention of the door [*sic.*], to give rise to scandal, whether in the Church or in the world." Gurteen quotes only part of the conclusion to Paul's argument, Romans 14:16, "Let not your

³⁷ Gurteen moved pages 3-6 of *Provident Schemes* to the beginning of *Handbook*, pages 9-12. To this, he adds what look like an original section, pages 12-19, and then picks up the text of *Phases of Charity* on page 20 of *Handbook*.

³⁸ S. Humphreys Gurteen, *Phases of Charity* (Buffalo, NY: Haas, Nauert & Klein, 1877), 13 and *Handbook*, 26.

good be spoken of as evil.” He next alludes to what are now considered deuterio-Pauline texts, 2 Thess. 3:10 (“For when we were with you, we charged you that if anyone does not wish to work, then neither shall he eat.”) and 1 Tim. 5:8 (“If also any one does not provide for his own, especially his household, then he has denied the faith and he is worse than an unbeliever.”).³⁹ In *Handbook*, Gurteen follows this section with a reworked passage from *Phases* which reads:

We adduce these plain, explicit and practical rules, laid down by St. Paul himself, with a definite purpose. But the question has several times been raised, especially since the necessity of the organization of city charities has been brought to public notice—yes, and ask in all honesty and sincerity—“Does not the proposed scheme rob the Church of her especial glory?”⁴⁰

When Gurteen incorporates this passage, he removes the following sentence from the same paragraph in *Phases*, “No one at the present day denies or refuses assent to the principle that we ought to “do good unto all men; in other words that we ought to let our charity expand on all sides,” erasing any positive role of charity in the religious life. Gurteen replaces this sentiment with a more emphatic statement about the role of a charity organization and the practice of charity. In *Phases*, Gurteen changes the following statement, “The Society does not demand the sole right to administration of all relief, it simply offers its services after investigating in case any individual Christians or benevolent societies should desire to dispense their charities through its agency” to the more emphatic statement in *Handbook*: “*The Society has nothing to do with the administration of relief*, it simply offers its services for investigation, for the establishment of provident schemes and for the reform of abuses [*italics original*].”⁴¹ Gurteen no longer wants the COS to intervene after investigation but to conduct investigations into the worthiness of recipients of charity.

³⁹ All translations from the Greek are my own.

⁴⁰ Gurteen, *Phases* 49 and *Handbook*, 52.

⁴¹ Gurteen, *Phases*, 51 and *Handbook*, 52.

Near the end of *Phases*, Gurteen quotes Luke 7:20-22 in order to make a distinction between the work of the Church and the work of the COS, namely the text's concern with preaching the gospel to the poor. In *Phases*, Gurteen responds by drawing a distinction between the heavenly work of the Church and the physical work of charity:

*With this, the heavenly side of charity, the proposed Society has no concern. This it leaves to the Church. It is for the Church to send forth her ministers, her missionaries, her sisterhoods, her visitors to administer spiritual relief, leaving to the Society the earthly side of Charity, the field of material relief.*⁴²

In *Handbook*, Gurteen replaces this dichotomy with a distinction between spiritual relief and the “business side” of relief:

*With this, the heavenly side of charity, the proposed Society has no concern. This it leaves to the Church. It is for the Church to send forth her ministers, her missionaries, her sisterhoods, her visitors to administer spiritual relief, leaving to the Society the business side of Charity, viz.: Organization and all that organization involves.*⁴³

At this point in *Phases*, Gurteen continues, “This is the real mission of the ‘Charity Organization Society.’ It is the handmaid of every creed, the rival of none. It offers its services to all alike. It is simply humanitarian in its aims.”⁴⁴ In *Handbook*, however, Gurteen inserts a five-paragraph condemnation of the Church where he accuses the clergy of wasting the Church’s money, robbing a person of his “manhood” (his assumption that only males would apply for aid), and destroying the “true manhood” of recipients.⁴⁵ Gurteen ends *Phases*, thus:” And if only the Church of god at the same time is true to *her* great duty, it will not be many years before we shall see the spreading on all sides of that righteousness which exalteth a nation.”⁴⁶

In *Handbook*, Gurteen changes this sentiment:

⁴² Gurteen, *Phases*, 54.

⁴³ Gurteen, *Handbook*, 55.

⁴⁴ Gurteen, *Phases*, 54-55.

⁴⁵ Gurteen, *Handbook*, 55-56.

⁴⁶ Gurteen, *Phases*, 54-55.

And if only the Church at the same time, were true to her great duty and would lend her strength to the furtherance of this noble movement, the day would not be far distant when Pauperism would become extinct, when the very word would be blotted out of our language and the poor—the honest poor who are always to be with us—would receive that justice at our hands which is not but too often denied them.⁴⁷

Phases continues with Gurteen's proposal for the COS in Buffalo. Gurteen's changes in the text from *Phases* to *Handbook* signal, in just two short years, his clarification of the proposed role of the COS, removal of any positive references to charity, and solidification his commitment to COS practice in which he separates his religious obligations from the practice of charity organization.

Gurteen opens *Provident Schemes* with the following paragraph:

There is scarcely any one of the great problems affecting the public good which has taken as strong a hold upon the national mind of Europe, or indeed upon the minds of the more intelligent portion of our own people, as the question, "How are we to prevent the pauperization of our poor? How are we to be *loving* and yet *wise* in our charity?"⁴⁸

However, in *Handbook*, Gurteen removes the positive references to charitable works in the opening paragraph:

There is scarcely any one of the great problems affecting the public good which has taken as strong a hold upon the national mind of Europe, or indeed upon the minds of the more intelligent portion of our own people, as the question of the prevention of the pauperization of the poor.⁴⁹

Gurteen also removes references to the police. In *Provident Schemes* in his discussion of the second phase of dealing with the problem of poverty, he states that "their repression was made a matter of state police;" however, in *Handbook*, he replaces "police" with "policy," a curious

⁴⁷ Gurteen, *Handbook*, 57.

⁴⁸ Gurteen, *Provident Schemes* (Buffalo, NY: The Courier Company, 1879), 3.

⁴⁹ Gurteen, *Handbook*, 9.

changes since Gurteen at the beginning of the COS in Buffalo used the police to locate people on relief and compose the organization's first registry.⁵⁰

In order to expand the reach to his audience, Gurteen removes references to the city of Buffalo in his discussion of cleaning up the “dwellings of the poor:”

It is a grand, a noble work which demands at first, and, so far as this city is concerned, not so much the labor of the clergy as the loving care of the practical, philanthropic women of Buffalo.⁵¹

It is the noble work which demands at first, not so much the labors of the clergy at the loving care of practical, philanthropic women.⁵²

Other corrections include a long correction from *Provident Schemes* about the origins of the *crèche* in France. Gurteen assumed that the inventor of the *crèche*, M. Marbeau (Jean Firmin Marbeau)—which could be *Madame* or *Monsieur* Marbeau—inspired by the idea of “*la sainte crèche*,” the holy manger, was a woman. Gurteen's correction evidences his own assumptions about gender and the role of women, especially in the COS. While the COS relied on women to act as “friendly visitors,” women were not allowed to hold administrative positions in the COS.⁵³ Gurteen changed his description of M. Marbeau as “a holy woman” to “this philanthropic man.”⁵⁴ Other changes simply correct gender, “her” to “him” or “his,” “Madame Marbeau” to “M. Marbeau,” and a change in adjective from a “grand success” to a “signal success” to which Gurteen adds:

In course of time the *crèche* took its place as a government institution, since it gave the child the first step in its education as a citizen; and at the Paris Exposition in 1867, the model of a *crèche* was exhibited by M. Marbeau under the auspices of the Department of Education.⁵⁵

⁵⁰ Katz, *Poorhouse*, 76-77.

⁵¹ Gurteen, *Provident Schemes*, 33.

⁵² Gurteen, *Handbook*, 79.

⁵³ Katz, *Poorhouse*, 78-79.

⁵⁴ Gurteen, *Provident Schemes* 39, and *Handbook* 84, respectively.

⁵⁵ Gurteen, *Handbook*, 84.

This may be a fact Gurteen learned in the intervening three years or it might reflect his assumptions than men's, not women's, organizations become government institutions. Overall the changes are few, yet these changes reflect Gurteen's assumptions about gender roles, his ever-growing commitment to COS principles, and a growing condemnation of the clergy and the Church's role in what he considered was a "pauperization" of the poor rather than the relief of severe need.

Not only did Gurteen reuse his own writings, in chapter ten of *Handbook*, "The Scientific Basis of Charity Organization," he liberally borrowed from the work of Sir Arthur Mitchell who also published a collection of lectures in 1881, one year before the publication of Gurteen's *Handbook*.⁵⁶ In Gurteen's defense, he freely admits to using Mitchell's work:

To accomplish this end, it will be necessary to adduce some of the best established facts of science—facts which are admitted on all hands, whether by evolutionist or anti-evolutionist; and as these facts have been most clearly and ably stated by Professor Mitchell, in his *Lectures on Civilization*, we shall take the liberty of quoting, condensing or paraphrasing his statements.⁵⁷

Gurteen does quote Mitchell nearly verbatim but without quotation marks or attribution. Like the reuse of his own writings, Gurteen makes few but telling changes from Mitchell's text. In the context of evolutionary theory, Mitchell crafts an argument to preserve the exalted place of human beings in the natural world, and Gurteen adapts Mitchell's ideas for his own purposes, namely an explanation of the origins of poverty in society in which disabled and impoverished people play a prominent role.

⁵⁶ See Part II, Lecture I "How Does the Law of Natural Selection Affect Man?" in Sir Arthur Mitchell, *The Past in the Present: What Is Civilization?* (New York: Harper & Brothers, 1881). The cover page in Mitchell's book states that the book is comprised of "Ten of the Rhind Lectures on Archaeology Delivered in 1876 and 1878." The title page of his book also shows that Mitchell, a doctor, served as the "Commissioner in Lunacy for Scotland," to which the list of his credentials that follow on the title page of his book provide an odd contrast: "Professor of Ancient History to the Royal Scottish Academy, Secretary of the Society of Antiquaries of Scotland, Etc., Etc."

⁵⁷ Gurteen, *Handbook*, 197.

Mitchell begins this argument by addressing variations in the natural world in terms of the differing levels of strength among animals:

Every animal varies in its offspring. Some are feeble as compared with others. Some are even imperfect or deformed. Some have such a low vitality that they die soon after birth; while others, for reasons which are the same in their nature, are dead at birth. Some, on the other hand, are remarkable for strength and perfection.⁵⁸

Gurteen uses Mitchell's words but ascribes this variation to human beings; he changes "animals" to "the human race." Gurteen also adds references to physical and mental characteristics of human beings, the descriptor "sickly" and the inclusion of "body and mind:"

It is self-evident that there is great variety of the offspring of the various members *of the human race*. Some are *sickly* and feeble as compared with others; some are even imperfect or deformed, while others are remarkable for their strength and perfection, *both of body and mind* [italics added].⁵⁹

Mitchell continues his argument, introducing the concept of the "struggle for existence:"

It is also the fate of all animals that they shall have what is called a struggle for existence. They have, for example to search for food, and that search always involves labor, and often involves fatigue and danger. They have enemies to flee from, and they have to provide shelters, both to protect themselves against the inclemencies of weather and to enable them to rear their offspring."

Gurteen again follows Mitchell but replaces "all animals" with "the vast majority of human beings:"

It is also the fate of *the vast majority of human beings* to have what is called a "struggle for existence." They have, for example to search for food and other necessities of life, and this search always involves labor, and often involves fatigue and danger. Moreover, they have to provide shelter, both to protect themselves against the inclemencies of weather and to enable them to rear their offspring.⁶⁰

Mitchell continues:

⁵⁸ Arthur Mitchell, *The Past in the Present*, 182.

⁵⁹ Gurteen, *Handbook*, 197.

⁶⁰ *Ibid.*

It is the necessary outcome of this struggle, and of this variety in the offspring, taken together, that those *animals* which are best fitted to live have the best chance of living, and that those which are the least fitted to live are the most likely to die early.⁶¹

Gurteen again echoes Mitchell's words but adds struggle "for life" and again applies Mitchell's argument to human beings:

It is the necessary outcome of this struggle *for life*, and of this variety in the offspring, taken together, that those *in the human race*, who are best fitted to live have the best chance of living, and that those *who* are the least fitted to live are the most likely to die early.⁶²

Mitchell has, thus far, constructed an argument regarding animals; he has not yet moved to discussing human beings. Mitchell concludes, "That Natural Selection acts strongly on the life-history of animals is beyond question."⁶³ Of human beings, however, Mitchell asserts:

So long as man stands in isolation he must be subject to this law, exactly like other animals. But, in actual fact, we have no knowledge of man living in that state of "self-dependence and individual isolation" in which we find other animals living. So far as we know, man has always and everywhere combined with man to defeat the law.⁶⁴

Mitchell continues:

It thus appears that the law which inexorably destroys all animals "that cannot in every respect help themselves" is set aside in the case of man, as the result of co-operation and the division of labor. In other words, the defeat of the law is attained by man in society, and is not attained by man acting singly or in isolation.⁶⁵

And Gurteen seems in agreement on this point because he again quotes Mitchell almost verbatim:

It thus appears, that the law which invariably destroys all of the lower animals that cannot "in every respect help themselves" is set aside in the case of man as the result of co-operation or band-work. In other words, the defeat of the law of

⁶¹ Mitchell, *Past in the Present*, 183

⁶² Gurteen, *Handbook*, 197.

⁶³ Mitchell, *Past in the Present*, 184.

⁶⁴ *Ibid.*, 185.

⁶⁵ *Ibid.*, 186.

Natural Selection is attained by man in society, in association, and is not attained by man acting singly or in isolation [*italics added*].⁶⁶

Mitchell argues that human beings, unlike animals, band together or “combine” and thus, subvert the law of natural selection through “mutual assistance” and the “division of labor.”⁶⁷ For Mitchell, human beings join together to build civilization:

Man individually is an organism—a bundle of organs—each organ useful, and together forming a complete whole. In like manner a human association is an organism—the different members forming the bundle of organs—each having a separate and useful function, and together forming a complete and powerful whole. Just as the individual man has eyes, ears, hands, legs, etc., so a human association has organs to make war or hunt, to fabricate weapons, to cultivate the soil, to herd the flocks—soldiers, farmers, carpenters, blacksmiths, house-builders, hatters, etc., all the way down to the makers of pin-heads and pin-points. In this way the variously constituted find places of usefulness.⁶⁸

Gurteen agrees in that he, again, quotes Mitchell’s nearly verbatim:

Man, individually, is an organism, i.e., he is a bundle of organs, each organ useful in itself, and, together, forming a complete whole. In like manner, a human association or society is an organism, the different members forming the bundle of organs, each having a separate and useful function and together forming a complete and powerful whole. Just as the individual man has eyes, ears, hands, etc.; so a human associate has organs to make war, or hunt, or fabricate weapons, to cultivate the soil or to herd the flocks; soldiers, farmers, carpenters, blacksmiths, clothiers, etc., all the way down to the makers of pin-heads and pin-points. In this way the variously constituted find places of usefulness.⁶⁹

Mitchell, then, makes use of an analogy to disability in order to illustrate his point:

When the cripple [*sic*] who can see mounts the strong back of his brother who is blind, they make together a man who can see and walk, and so they can both accomplish the journey which to each separately is impossible. In this little society of two we see that happening, in a small and simple way, which presents itself, with much complication, in large associations of men.⁷⁰

⁶⁶ Gurteen, *Handbook*, 198.

⁶⁷ Mitchell, *Past in the Present*, 185, 186.

⁶⁸ *Ibid.*, 187.

⁶⁹ Gurteen, *Handbook*, 200.

⁷⁰ Mitchell, *Past in the Present*, 188.

This analogy was, in fact, so powerful for Mitchell that it appears as an illustration on the cover and title page of Mitchell's book. In his introductory remarks, Mitchell states, "For the emblem on the title-page I am indebted to the kindness of my friend Sir J. Noël Patton. It is above praise."⁷¹



Figure 1 Sir J. Noël Patton's image in Mitchell's book [Image description: The image shows an aged male with a muscular body who cannot see holding a walking stick and carrying a younger male on his back whose feet are permanently turned and pointed who looks forward holding a lamp.]

Mitchell, then, identifies what he considers his innovative contribution to the debate about evolution and human beings:

...civilization is nothing more than a complicated outcome of a war waged with Nature by man in Society to prevent her from putting into execution in his case her law of Natural Selection. All men—everywhere and in all stages of progress—from states of very low to states of very high civilization—are banded together, weakly or powerfully, to fight this fight, and the measure of success which attends the struggle of each band or association so engaged is the measure of the civilization it has attained [italics original].⁷²

⁷¹ Mitchell, *Past in the Present*, 7.

⁷² Mitchell, *Past in the Present*, 189.

In turn, Gurteen so obviously admired Patton's image that he reproduced it on the title page of *Handbook* and presented Mitchell's analogy as a direct quotation of Mitchell's work:

To use the fine illustration of Professor Mitchell, "When the cripple who can see mounts the strong back of his brother who is blind, they make together a man who can see and walk, and so in association, they can both accomplish the journey which to each separately is impossible. In this little society of two we see happening in a small and simple way, that which presents itself with much complication in large associations of men."⁷³

Gurteen seizes upon these two ideas of Mitchell's, the division of labor and the idea of humanity banding together to defeat natural selection which results in the "unfit" surviving with the "fit" in society, but, unlike Mitchell, Gurteen fixates upon the idea of the "unfit:"

[T]he survival of those of the human race who are either physically or mentally unable to provide for themselves, is the direct result of civilization, *i.e.*, of the banding together to defeat the law of Natural Selection. Our hospitals, our dispensaries, our insane asylums, our homes for the aged, our benevolent societies, our charitable institutions of nearly every class, are the necessary outcome of this banding together for the purpose of defeating this grand law of Nature. If man lived in a state of isolation and not in an organized society, such institutions could have no existence. It is this banding together which has caused the "survival of the unfit" and thrown them as a not unwelcome burden upon Society to be wholly or in part supported by the strong and vigorous. This scientifically considered is the origin of Poverty.⁷⁴

Although Mitchell does not expand upon the idea of the division of labor, Gurteen calls it the "second great natural law."⁷⁵ For Gurteen, the division of labor does not refer to the larger battle against nature, as for Mitchell, but to work:

Now, let us apply this grand law to the case of those who are weak, sick and defective—the "unfit," as science calls them. To revert to Professor Mitchell's illustration, if the keen sighted cripple had always been compelled to use his eyesight as a return for being allowed to mount the strong back of his blind brother, he might have performed as truly his proportionate share of labor as the strong and vigorous. The cripple may not be able to gain his living as a farm hand, but he may be able to keep the books of the produce merchant. The sickly, may

⁷³ Gurteen, *Handbook*, 201. In the single instance when Gurteen purports to directly quote Mitchell, he does not correctly quote his work.

⁷⁴ *Ibid.*, 198.

⁷⁵ *Ibid.*, 200. See Mitchell, *The Past in the Present*, 198-199.

not be able, physically to pass an army examination, but he may be able to perform duty in the manufactory which makes army supplies. In other words, the “division of labor,” which is one factor in the great law of the “survival of the unfit,” cannot be ignored in any scientific system for the relief of the physically weak, the physically sick, the physically defective.⁷⁶

For Gurteen this division of labor guards against any person becoming a burden to society, in that “each member of the community must perform that part which he is best able to perform, so as to keep up the just *average of labor*.”⁷⁷ Gurteen attributes responsibility for the honest poor, the only truly deserving population, to the “survival of the unfit” and deems the division of labor “Nature’s compensation for the survival of the unfit.”⁷⁸ For Gurteen, however, “unfit” becomes a way of understanding all of the poor; each one possess some degree of “unfitness.”⁷⁹ Nonetheless, Gurteen holds particular groups of people, especially people with disabilities, responsible for setting in motion poverty and the resulting pauperization of the poor. Yet, for Gurteen, these groups of people serve a positive function in society. He characterizes the “unfit” as a “not unwelcome burden,” since they serve as the group upon whom the “fit” within humanity exercise and perfect their human virtues:

The power of forming associations—the power of doing intelligent hand-work, is pre-eminently the characteristic of Man. It is by the exercise of this power, as we have just seen, that Man is enabled to defeat the operation of the law of Natural Selection, and *by thus making possible the “survival of the unfit” has opened up to himself a field for the exercise of his love, his sympathy, his enthusiasm for humanity*” [italics added].⁸⁰

Gurteen explicitly associates people with disabilities with poverty and defines disabled people as unfit to live. At the same time, the “unfit” serve as an object for the altruistic actions of the larger population.

⁷⁶ Gurteen, *Handbook*, 201.

⁷⁷ Ibid., 202.

⁷⁸ Ibid., 204.

⁷⁹ Ibid., 204.

⁸⁰ Ibid., 199.

At this point in *Handbook* having created “the division of labor” as the second great law of nature, Gurteen applies what he thinks are Mitchell’s scientific ideas to “Pauperism and Poverty,” and it is here that Gurteen’s writing is most damaging in its constructions of disability. Gurteen likens the COS’s ordering of public and private charity to the cooperation of the human community. Up to this point in *Handbook*, Gurteen’s treatment of disability is less well-defined than one might think which indicates that he himself has a difficult time arguing who can work and thus, delineating the undeserving cases from the deserving.

Where Mitchell finds that the banding together of human beings creates society, Gurteen calls upon society to band together to keep “the weak, the sick, the defective” from “shirk[ing] each one’s due share in the labors of life.”⁸¹ For Gurteen, the division of labor, not natural selection, is “nature’s great law.”⁸² While Mitchell is not innocent of Social Darwinist ideas, Gurteen conflates Mitchell’s carefully constructed two-part argument which draws a distinction between animals and human beings and reads the entire argument as if it applies to human beings, alone. Mitchell’s analogy, though meant as a positive illustration of his theory of human beings banding together, is precisely what people living with disabilities still fight today—the image of disabled people overcoming their disabilities as a source of inspiration for non-disabled people. Further, Mitchell’s analogy and its accompanying image expose deeply ambivalent attitudes about disability and disabled people, trading upon the idea that a person with a disability is not a complete person. Gurteen fails to recognize the disabling effects of industrialized work, the lack of work, employment discrimination against disabled people, and whether disabled people could command a livable wage.

⁸¹ Ibid., 199.

⁸² Ibid., 201.

1.3 The Construction of Disability in Gurteen's *Handbook*

Gurteen's *Handbook* remains the exemplar of the principles of scientific charity, a system that distinguished between "deserving" and "undeserving" people who applied for assistance.⁸³ Gurteen's discourse about the deserving and undeserving poor focuses primarily on employment and solving the "problem" of the "able-bodied," who, in his thinking, *could* but *would not* work. This study considers nineteenth century language used to describe disability, such as "sick," "crippled," "maimed," "deformed," "imbecile," and "insane," though offensive by modern-day standards, that indicates when, where, and how the authors of historical accounts understood people with disabilities in the larger scheme of the deserving and undeserving poor. Gurteen's collected works, which make use of these terms, appeared at the height of Social Darwinism, the idea that positive physical and intellectual traits could be selected and passed on and that "defects" could be eliminated. Social Darwinism emerged during the transition from a mercantile system to a capitalist system marked by industrialization and increased urbanization. Thought to be a misappropriation of Charles Darwin's ideas, Social Darwinism, specifically the writings of Gurteen, shows a remarkable similarity to Darwin's discussion of human populations in the *Descent of Man*. Built upon similar language and ideas as Darwin's *Descent*, Gurteen blamed people with disabilities for the existence and continuation of poverty.⁸⁴

Gurteen outlined the structure, operation, and thinking of the COS in his *Handbook*. According to the charity organization movement, poverty was not the problem but the "pauperization" of the poor, whereby charity, public or private, that made no distinction between

⁸³ S. Humphreys Gurteen, *A Handbook of Charity Organization* (Buffalo, NY: The Courier Company, 1882).

⁸⁴ Snyder and Mitchell include Darwin's work among three "historical examples of disability as the foundation of biological ideologies of inferiority." See Snyder and Mitchell, *Cultural Locations*, 12-13, 70-73. See also, Lennard J. Davis, *Enforcing Normalcy: Disability, Deafness, and the Body* (London: Verso, 1995), 30-33.

deserving and undeserving cases, demoralized the poor, making them dependent on society instead of their own, individual ambitions. The COS framed its argument in largely gendered terms; charity caused *men* to be dependent and the COS wanted to “win back the degraded pauper to ideas of self-respect, independence, and manhood.”⁸⁵ According to COS doctrine, indiscriminate alms-giving worsened the situation by cultivating dependence and immoral behaviors, such as gambling and drinking. Gurteen argued that in spite of the increase of money spent to alleviate poverty, the numbers of poor people continued to grow, and he attributed this to a choice by the able-bodied to accept relief rather than to work. For the COS, the reasons for poverty did not reside in growing industrialization or increased urbanization with its resulting overcrowding, but in the lack of character of the poor. The COS wanted to improve the condition of the poor through improved housing, savings banks (known as Penny Banks), and medical services.⁸⁶ Recognizing the ever-widening gap between the rich and the poor, Gurteen argued that the rich had a responsibility for the situation of the poor which they could fix by entering into personal relationships with them as “volunteer visitors.” These volunteers would engage in “friendly visiting” of the poor in order to enter their homes, form friendships with them, and offer advice and encouragement. Several assumptions informed the COS worldview, namely that poor people lived in dirty, unsanitary conditions because they did not know any better, that the rich had a responsibility to guide the poor to an improved lifestyle, and that most people seeking relief were dishonest and, thus, their claims for help must be investigated.

COS investigation involved categorizing claims for relief into deserving and undeserving cases; however, Gurteen identified three groups of impoverished people in *Handbook*: those who qualified for aid (the deserving), those who did not (the undeserving), and the honest poor, likely

⁸⁵ Gurteen, *Handbook*, 14.

⁸⁶ *Ibid.*, 17.

never seen by relief agencies. Gurteen named specific groups of people when he outlined the responsibilities of the District Committee, the body that determined eligible and ineligible cases. Following COS practice in England, Gurteen recommended the “work-test,” giving aid only in return for work, as the best way to distinguish between the deserving and the undeserving poor.⁸⁷ However, when Gurteen provided concrete examples of people who might apply for relief, he began by stating an “axiom of our social life,” namely that the “inability to work, whether physical or mental, or inability to procure work, or to procure sufficient work with evidence of full willingness to labor, should be the sole conditions of relief, whether official or private.”⁸⁸ From this, Gurteen identified the deserving poor:

1. The full orphan who is too young to be self-supporting, and the half orphan whom, for any sufficient cause whatsoever, the surviving parent cannot support.
2. The aged, who are too feeble to work.
3. The insane, who are mentally disqualified for work.
4. The incurably sick and infirm, who cannot gain a livelihood.
5. The crippled and deformed, whose infirmities are such as to preclude self-help.⁸⁹

Language used to mark disability in the nineteenth century, “insane,” “sick,” “infirm,” “crippled,” and “deformed,” dominated Gurteen’s categorization of the deserving poor. Yet, due to his overarching goal to limit out-door relief (monetary payments, clothing, food, or coal given to people who remained in their own homes), Gurteen recommended only in-door relief to the deserving poor: to become wards of the state and enter a public or private institution:

According to the classification here made, it will be seen that we have restricted in-door official relief to the helpless, the incurable, the crippled, the insane and the aged; i.e. to those who are permanently incapacitated for work or who have not as yet reached the working age.⁹⁰

⁸⁷ Ibid., 31.

⁸⁸ Ibid., 136.

⁸⁹ Ibid.

⁹⁰ Ibid., 137

Here, Gurteen characterizes people with disabilities as helpless on the basis of an ability to work and, in effect, renders them undeserving by removing them from economic sphere and, ironically, limiting their independence.

Gurteen identified the undeserving poor as:

1. The shiftless, who are too idle to work.
2. The improvident, who squander their means, making high wages at one season of the year and willing to beg when the working season is past.
3. The dissolute, who drink or gamble away their means and unfit themselves for steady work.
4. The confirmed pauper, who prefers to beg rather than work.
5. The tramp, who leads a worthless life and is but too often a thief.⁹¹

Gurteen's categories and their explanations underscored his assumption that individual actions and moral failings caused poverty. Gurteen effectively negated out-door relief by offering this type of aid only to the undeserving. For Gurteen, young children, the aged, and people with disabilities were not considered eligible for this type of relief. Through a battery of rhetorical questions, Gurteen reveals his thoughts about other forms of assistance: "What then is to be done with these cases? Are we to leave them to starve? Are we to allow them to live upon alms and rob the honest poor? Or, again, are we to make them a charge upon the industrial classes by taxing our citizens for their support?" Gurteen answers, "But one course is open...if official out-door relief is to be retained a part of our poor-law system...it should be given on the sole condition that each one makes a full return in work for whatever he may receive."⁹² For Gurteen, work remained the only factor in determining who is eligible for aid, and he does not necessarily bar people with disabilities from working, since they can be among the honest poor.

Gurteen identified the honest poor as

1. Those out of employment, but who are able and ready to work whenever work can be had.

⁹¹ Ibid.

⁹² Ibid., 138.

2. Those who have insufficient work and are able and ready to do more.
3. The temporary sick, who, if well, would be wholly or partially self-supporting; (this class includes women in childbed, etc.)
4. The partially crippled, who can earn only an insufficient support.
5. Persons with very young children, who would gladly work but are prevented from doing so, by the necessities of a young family.⁹³

Although Gurteen states that this list is not exhaustive, he includes only those people who adhere to his labor axiom: “whether or not the applicant is willing to do as much work as his condition will allow.”⁹⁴ Thus, according to Gurteen, some people with disabilities, people who are ill or who have only a “partial” mobility impairment, may be among the honest poor. Paradoxically, according to Gurteen, the honest poor, though eligible for relief, are too proud to seek aid and, thus, charitable giving will never reach them.

1.4 Social Darwinism and Charity Organization

The last chapter of Gurteen’s book is an example of Social Darwinism, the application of Charles Darwin’s ideas to social theory, and although the field of science is quick to denounce Social Darwinism as an exploitation and misapplication of Darwin’s ideas of “natural selection” and “survival of the fittest” to human populations, Darwin is not entirely blameless.⁹⁵ To view Darwin’s work as somehow neutral disregards the social context in which he lived and worked. Darwin first encountered the idea of a “struggle for life,” what he later called “natural selection,” in Thomas Robert Malthus’s (1766-1834) *An Essay on the Principle of Population* (1798). Malthus argued that human populations grow faster than food supplies causing a struggle for existence; therefore, delaying marriage, war, poverty, and famine keep human populations from

⁹³ Ibid., 139.

⁹⁴ Ibid., 137.

⁹⁵ James Allen Rogers, “Darwinism and Social Darwinism,” *Journal of the History of Ideas* 33 (1972): 265.

outpacing food production. Darwin saw in Malthus' work a way of understanding what he encountered when he sailed around the world aboard the H.M.S. Beagle, namely that while the Galapagos Islands displayed the general flora and fauna of South America, each island showed slight variations in plant and animal life. For Darwin, the struggle for existence favored some traits over others, and this accounted for the similarities and slight differences on each island.

The second important phrase used by Darwin, "survival of the fittest" was coined by Herbert Spencer. Although Darwin incorporated these two ideas into his work about biology, he insisted that he used them "in a large and metaphorical sense."⁹⁶ While many might agree with the idea that, "Darwin cannot possibly be held responsible for the later interpretations of this theory of natural selection advocated by proponents of various social philosophies," unequivocal textual links exist between Gurteen's chapter about the scientific basis of charity, an example of Social Darwinism, and Darwin's *Descent of Man*, the application of his theory of evolution to human beings.⁹⁷ Darwin, himself, applies these "metaphorical" concepts to humans in *Descent* in 1871 only three years after he incorporated Spencer's idea of the "survival of the fittest" into the fifth edition of *Origin*, published in 1869.

By the time Darwin published *Descent*, he had come a long way from sentiments he expressed about slavery in *The Voyage of the Beagle*: "...if the misery of the poor be caused not by the laws of nature, but by our institutions, great is our sin."⁹⁸ He had accepted the application of natural selection and survival of the fittest to human populations. According to Darwin, people with disabilities would not survive the "struggle for life" except for the social nature of human beings that led to cooperation and the nurturing of the highest human virtue, sympathy.

⁹⁶ Charles Darwin, *The Origin of Species by Means of Natural Selection: Or, the Preservation of Favored Races in the Struggle for Life* (Akron, OH: The Werner Company, 1900), 78.

⁹⁷ Rogers, "Darwinism," 268.

⁹⁸ Charles Darwin, *The Voyage of the Beagle* (Auckland: The Floating Press, 1839; 2008), 812.

Ironically, disability permeated Darwin's life. Darwin, himself, experienced a long-term illness as well as the tragic deaths of his daughter, Annie, who had an unknown illness, and his last child, Charles who may have also had a disability.⁹⁹

It is important to understand Darwin's stated motives in writing *Descent* and to trace his ideas that lead up to his conclusions about "civilized" people in the fifth chapter of *Descent*. In chapter one, Darwin establishes that humans are descended from "lower forms," and in chapter two he traces how this occurred. Then, in chapters three, four, and five, Darwin address the "mental powers" of humans which "do not differ in kind, although immensely in degree" from the animal world.¹⁰⁰ Darwin then, traces how these mental powers develop into morality and conscience in human beings.

In the Introduction to *Descent*, Darwin states:

The sole object of this work is to consider, first, whether man, like every other species, is descended from some pre-existing form; secondly the manner of his development; and thirdly, the value of the differences between the so-called races of man.¹⁰¹

Darwin opens chapter one in this way:

He who wishes to decide whether man is the modified descendant of some pre-existing form would probably first inquire whether man varies, however, slightly, in bodily structure and in mental faculties; and if so, whether the variations are transmitted to his offspring in accordance with the laws which prevail with the lower animals.¹⁰²

The adumbrations of Social Darwinism emerge as he continues:

The inquirer would next come to the important point whether man tends to increase at so rapid a rate as to lead to occasional severe struggles for existence; and consequently to beneficial variations, whether in body or mind, being preserved, and injurious ones eliminated...We shall see that all these questions, as

⁹⁹ Steven A. Gelb, "Darwin's Use of Intellectual Disability in *The Descent of Man*," *Disability Studies Quarterly* 28 (2008): 35. In fact, Darwin kept a journal for six years detailing the symptoms of his illness.

¹⁰⁰ Charles Darwin, *The Descent of Man and Selection in Relation to Sex*, (New York: Collier, 1901).

¹⁰¹ Darwin, *The Descent of Man*, 18.

¹⁰² *Ibid.*, 21.

indeed is obvious in respect to most of them, must be answered in the affirmative.¹⁰³

However, in chapter two when Darwin begins to argue that humans developed from a “lower form,” he acknowledges, though in biased terms, the wide range of human variability:

It is manifest that man is now subject to much variability. No two individuals of the same race are quite alike. We may compare millions of faces, and each will be distinct. There is an equally great amount of diversity in the proportions and dimensions of the various parts of the body.¹⁰⁴

Nineteenth century social theorists were keen to retain an elevated place for Europeans in the human sphere, and Darwin was no exception. Darwin recognizes the wide range of physical variation among human beings and then affirms cognitive variation, though, once again, couched in racial terms: “The variability or diversity of the mental faculties in men of the same race, not to mention the great differences between men of distinct races, is so notorious that not a word need here be said.”¹⁰⁵ Darwin drew a sharp distinction between Europeans’ intellect and the moral faculties of everyone else.

In chapter four of *Origin*, Darwin maintains that the “moral sense or conscience” is the most important distinction between human beings and animals followed by a reference to Kant’s definition of duty in *The Metaphysical Elements of Ethics*. Darwin proposes to explain Kant’s idea of duty from the perspective of natural history.¹⁰⁶ Darwin asserts that once intellect develops, any animal will develop a moral sense, that “social instincts lead an animal to take pleasure in the society of its fellows, to feel a certain amount of sympathy with them, and to perform various services for them.”¹⁰⁷ Once language develops and “the wishes of the community could be expressed, the common opinion how each member ought to act for the

¹⁰³ Ibid., 22.

¹⁰⁴ Ibid., 46.

¹⁰⁵ Ibid., 47.

¹⁰⁶ Ibid., 134-35.

¹⁰⁷ Ibid., 135-36.

public good would naturally become in a paramount degree the guide to action.”¹⁰⁸ For Darwin, sympathy is foundational to action in that each member of the community cares what the community thinks and responds to the wider community’s approval or disapproval. Animals live in social groups, provide services to one another (hunting and defense), love one another, and sympathize with one another, motivated by “the same sense of satisfaction or pleasure which they experience in performing other instinctive actions; or by the same sense of dissatisfaction as when other instinctive actions are checked.”¹⁰⁹ Darwin then transitions to a discussion of human beings as social beings where love and sympathy remain instinctual. Like animals, sympathy causes humans to care about the approval or disapproval of members of their community. The development of love and sympathy combined with intellectual developments (reason) lead a human being to feel

impelled, apart from any transitory pleasure or pain, to certain lines of conduct. He might then declare—not that any barbarian or uncultivated man could thus think—I am the supreme judge of my own conduct, and, in the words of Kant, I will not in my own person violate the dignity of humanity.¹¹⁰

Here, Darwin separates himself from Utilitarianism. In fact, Darwin regards “selfishness” and the “greatest happiness principle,” (here he directly references John Stuart Mill), as a standard but not the foundation of morality. For Darwin, morality is innate in human beings, instinctual. Darwin prefers to define morality, not in terms of the general happiness, but the general good; however, Darwin defines the good in ableist terms: “the rearing of the greatest number of individuals in full vigor and health, with all their faculties perfect.”¹¹¹ Social instincts lead to sympathy, “some wish to aid his fellows,” and later aided by intellect, showed that a human

¹⁰⁸ Ibid., 136.

¹⁰⁹ Ibid., 143.

¹¹⁰ Ibid., 150.

¹¹¹ Ibid., 163.

being's "sympathies became more tender and widely diffused, extending to men of all races, to the imbecile, maimed, and other useless members of society, and finally to the lower animals—so would the standard of his morality rise higher and higher."¹¹²

Much like Gurteen's "not unwelcome burden," people with disabilities are the objects by which people who are "strong and vigorous" perfect their morality. For Darwin, this development culminates in the golden rule which for Darwin "lies at the foundation of morality."¹¹³

Chapters one through four lead up to Darwin's conclusions in chapter five. In his section entitled, *Natural Selection as affecting Civilised Nations*, Darwin comes to this conclusion:

With savages, the weak in body or mind are soon eliminated; and those that survive commonly exhibit a vigorous state of health. We civilised men, on the other hand, do our utmost to check the process of elimination; we build asylums for the imbecile, the maimed, and the sick; we institute poor-laws; and our medical men exert their utmost skill to save the life of every one to the last moment. There is reason to believe that vaccination has preserved thousands, who from a weak constitution would formerly have succumbed to small-pox. Thus the weak members of civilised societies propagate their kind. No one who has attended to the breeding of domestic animals will doubt that this must be highly injurious to the race of man. It is surprising how soon a want of care, or care wrongly directed, leads to the degeneration of a domestic race; but excepting in the case of man himself, hardly any one is so ignorant as to allow his worst animals to breed.¹¹⁴

For Darwin, the moral virtues that slowly developed among humans, courage, fidelity, and sympathy, work against natural selection. He explains in the next paragraph:

The aid which we feel impelled to give to the helpless is mainly an incidental result of the instinct of sympathy, which was originally acquired as part of the social instincts, but subsequently rendered, in the manner previously indicated, more tender and more widely diffused. Nor could we check our sympathy, even at the urging of hard reason, without deterioration in the noblest part of our nature... We must therefore bear the undoubtedly bad effects of the weak surviving and propagating their kind; but there appears to be at least one check in steady action, namely that the weaker and inferior members of society do not marry so freely as the sound; and this check might be indefinitely increased by the

¹¹² Ibid., 168-69.

¹¹³ Ibid., 171.

¹¹⁴ Ibid., 180-81.

weak in body or mind refraining from marriage, though this is more to be hoped for than expected.¹¹⁵

Thus, Darwin is not completely innocent of Social Darwinists' applications of his ideas.

Both Darwin and Gurteen divide humanity into the “strong and vigorous” and the “weak, helpless, and unfit,” naming people with disabilities in this second group. They both insist on the social nature of human beings who live in community (Darwin) and band together (Gurteen). For both, the existence of people with disabilities proves that the “strong and vigorous” have subverted the “law” of natural selection. Both Darwin and Gurteen consider existence of people with disabilities a threat to the wider human population. For Gurteen, people with disabilities are the source and continuation of poverty and, for Darwin, injure the evolution of the human race. At the same time both Darwin and Gurteen assert that people with disabilities are the means by which humanity moves toward greater and greater virtue, and both use the same term to name this virtue: sympathy.

Although evolution was not a new idea, Darwin's careful, methodical work in *Origin* provided what scientists considered a solid, scientific basis that previous theories of evolution lacked; however, when Darwin writes about humanity in *Descent*, he relies on one stream of prevailing social thought that assigns negative value to people with disabilities and “other useless members of society.” Darwin insisted when he wrote *Origin* that his use of “natural selection” and “survival of the fittest” were metaphors and only applied to biology, but through conversations with his peers, by the time he wrote *Descent*, his theories were no longer metaphorical when he applied them to human beings.

¹¹⁵ Ibid., 181.

Darwin makes value judgments when he connects “natural selection” and “survival of the fittest” to humans—unlike his treatment of the animal and plant world. In *Origin*, he defines his terms this way:

This preservation of favourable individual differences and variations, and the destruction of those which are injurious, I have called Natural Selection, or the Survival of the Fittest. Variations neither useful nor injurious would not be affected by natural selection.¹¹⁶

Darwin allows for variations that are neither favorable nor unfavorable in *Origin* but makes assumptions and judgments about people with disabilities in *Descent*. Darwin seems to assume that anyone with a disability, who uses a hospital, who is aged, or receives a vaccination, would die without the intervention of the strong, vigorous, and virtuous members of society. He names categories of “weak” people in society, sets them in opposition to the “strong and vigorous,” and suggests that their existence will injure the human population. With Darwin’s recognition of the wide variation of physical and cognitive human existence coupled with his Kantian approach to human dignity, Darwin was poised to think in new ways about humanity as he had in regard to the animal and plant world in *Origin*; however, when he applies his theories to human beings in *Descent*, he imitates the social and political assumptions of his time.¹¹⁷

A Disability Studies (DS) perspective of *Descent* allows readings of *Descent* never imagined by its author or audience that, at the same time, maintain an unfortunate continuity. The Darwinist and Social Darwinist framework that emerges from *Origin* and *Descent* remains all too familiar to people with disabilities: “With the rise of capitalism, disability has become an

¹¹⁶ Darwin, *Origin*, 98.

¹¹⁷ Darwin states in chapter five that he bases his work on that of Alfred R. Wallace, W. R. Greg, and Francis Galton, Darwin’s half cousin and the founder of the Eugenics movement. See Alfred R. Wallace, “The Origin of Human Races and the Antiquity of Man Deduced from the Theory of Natural Selection,” *Journal of the Anthropological Society of London*, vol. 2 (1864), clviii - clxxxvii; Francis Galton, “Hereditary Talent and Character” *Macmillan’s Magazine* 12:70 (1865: Aug.), 318-327; W. R. Greg, “On the Failure of Natural Selection in the Case of Man” *Fraser’s Magazine* 78:465 (1868: Sept.), 353-362.

important boundary category through which people are allocated either to the work-based or needs-based system of distribution.”¹¹⁸ The United States budget crisis, the debate over healthcare, human worth marked by money and specific types of productivity, the medical industry that forms a large part of the U.S. economy, and genetic “counseling” for parents whose unborn child may have a disability, work from and perpetuate a Social Darwinist way of thinking about people with disabilities. This is not a mere historical interest. Society lauds its advances and achievements in science, technology, and healthcare that impact the lives of people with disabilities and yet conceptualizes that same group of people whose participation makes those achievements possible as problem, a burden, and a drain on society’s money and resources.

To return to Gurteen, he did not again publish until eleven years after *Handbook* when his address delivered at the New England Conference of Charities, “Beginning of Charity Organizations in America,” was printed in 1894 in the journal, *Lend-A-Hand*. In it, Gurteen warmly remembered his first encounter with charity organization and remained steadfastly committed to COS ideals:

When your Committee did me the honor to invite me to be present at this New England Conference of Charities, Correction and Philanthropy and to give a brief narrative of the beginning of charity organization in this country, I accepted the invitation with a very great deal of pleasure, for the fascination which the noble and lofty aims of charity organization exercised over me years ago, as a young University man, has lost none of its force as time has rolled by, but on the contrary, after twenty years of experience in the work, I see more clearly than ever that true charity, true love, true sympathy, such as the Charity Organization Society advocates and fosters, is that one grand touch of nature that makes “the whole world kin.”¹¹⁹

Other charity workers, such as Josephine Shaw Lowell and Helen and Bernard Bosanquet were coming to the realization that blame lay not on impoverished persons but greater social and

¹¹⁸ Michael Oliver, *The Politics of Disablement: A Sociological Approach* (New York: St. Martins, 1990), 40.

¹¹⁹ S. Humphreys Gurteen, “Beginning of Charity Organization in America,” *Lend-A-Hand* 13 (1894): 352.

economic forces outside of their control. However, Gurteen fails to recognize the declining influence of charity organization and Charity Organization Societies: “Since the publication of this volume in 1882, the organizational plan of dealing with pauperism and poverty has spread far and wide over the United States, and today is acknowledged to be, when fully and conscientiously carried out, a most beneficent solution to a great problem.”¹²⁰ Further, Gurteen took this opportunity to advocate for an expansion of COS practice through the establishment of a national council of the COS.¹²¹

In the original draft of the charity organization scheme which I drew up in 1877, I made a suggestion which it might, perhaps, be well to consider, now that charity organization is no longer an experiment but a demonstrated success. It was suggested to establish from the start a “National Council of the Charity Organization Society” to be composed of representatives of the central councils of all charity organization societies in the country and of members at large specially elected.¹²²

Once Gurteen finishes discussing, at length, the need for a national council, he takes a turn near the end of his speech. A life-long supporter of non-sectarian charity organization i.e. not aligned with a particular denomination, Gurteen states, “If there has been in the past one thing more than another that has led to pauperism and all its attendant evils it is the existence of denominational exclusiveness and racial prejudice. The antidote to all this is charity organization.”¹²³ Like denominational affiliation, Gurteen thought that relief agencies by and for particular immigrant groups were discriminatory; in doing so, Gurteen revealed his ignorance of the extreme prejudice against groups of people from other countries who were constructed as even more unintelligent, immoral, and filthy as native-born impoverished people. Further, nowhere in his writings, does Gurteen show an awareness of or address the plight of black impoverished people in the U.S.:

¹²⁰ Gurteen, “Beginning,” 364.

¹²¹ Ibid., 365.

¹²² Ibid. Gurteen discusses at length the importance of a national council, 365-366

¹²³ Ibid., 366.

As Du Bois pointed out, the overwhelming burden in charitable work for Negroes was borne by the Negroes. No proposals for action, no programs or plans were advanced by the societies to guarantee the Negro's political, economic, or social rights or to deal with his [sic.] unusual circumstances.¹²⁴

In Gurteen's mind, charity organization unquestionably remained a positive solution to poverty; he concludes his speech thus: "No wonder that the lofty aims and practical methods of charity organization, leading as they do, to "peace on earth," should fascinate the imagination, captivate the thought and command the energies of the University, the Forum, and the Exchange."¹²⁵

Gurteen would die four years later on August 10th, 1898 believing in the virtues of charity organization and his role in spreading its ideas throughout the U.S. At the time Gurteen delivered this address, the U.S. was again experiencing another severe winter, the Winter of 1893-1894, and the deprivation among impoverished people would have been acute and visible. Just before the turn of the twentieth century, when the work of other charity organization workers shifts from individual responsibility for poverty to a consideration of social and economic factors, Gurteen shows no movement in his thinking about poverty and little connection to current COS thinking and practice.¹²⁶ The COS would stop using the term "deserving" in 1896.¹²⁷

It would be easy to vilify charity organization and its U.S. progenitor, since the writings left behind by its proponents provide ample evidence of Social Darwinist thinking and their disdain for the poor; however, some aspects of early charity practices, from the eighteenth to the nineteenth centuries, evidence early recognition that the disabling effects of war,

¹²⁴ Alvin B. Kogut, "The Negro and the Charity Organization Society in the Progressive Era," *Social Service Review* 44 (1970), 20. While Kogut attributes the lack of assistance to the racism prevalent in U.S. society, he does point out that the COS moralized poverty rather than addressing systemic, social causes which precluded addressing racism and poverty.

¹²⁵ *Ibid.*, 367.

¹²⁶ Boyer, *Urban Masses*, 159. Boyer points to the following works as indicative of this shift in COS thinking: Mary Wilcox Brown, *The Development of Thrift*; Amos Warner, *American Charities*; Mary Richmond, *Friendly Visiting Among the Poor*. Woodroffe, *From Charity to Social Work*, 93.

¹²⁷ James B. Lane, "Jacob A. Riis and Scientific Philanthropy During the Progressive Era," *Social Service Review* 47 (1973): 39.

industrialization, and the direction of U.S. economic development had a deleterious effect upon or created disabled bodies. For instance, Revolutionary War veterans injured during the war received pensions. In 1793, the state of Kentucky passed legislation to provide monetary assistance to families to help care for disabled family members.¹²⁸ The medical industry has produced gains in treatment, survival, life expectancy, and well-being of disabled people.¹²⁹ Some aspects of charity organization, historically, may have benefited disabled people:

While it has certain merits, the disability rights critique of charities appears one-sided and exaggerated. It also fails to contextualise charities in the historical situation in which they emerged. For example, with hindsight, the creation of segregated living, educational and employment situations would now appear inappropriate and misguided. But at the time when charities were developing these services, this reflected contemporary thinking on the best ways to support disabled people. In the absence of segregated charitable provision, many disabled people would have been totally neglected. Until 1893, it was only voluntary charitable organisations which made any formal provision for disabled people.¹³⁰

Further, “[w]ithout voluntary organisations, disabled people’s needs could only be met by their own families, by the market, or by the state.”¹³¹ And although institutionalization resulted in the capacity for great abuse and social control, the institution in some ways may have been a site of resistance in that “the congregation of people with similar disabilities for treatment and services also made possible the development of group identities, which ultimately facilitated the rise of political activism in the modern era.”¹³² Josephine Shaw Lowell, associated with the charity organization movement, worked to keep impoverished families together, advocated for working women’s rights, and organized work committees to provide employment during downturns in the

¹²⁸ David L. Braddock and Susan L. Parish, “An Institutional History of Disability” in *Handbook of Disability Studies*, ed. Gary L. Albrecht, Katherine D. Seelman, and Michael Bury (Thousand Oaks, CA: Sage Publications, 2001), 27.

¹²⁹ Oliver, *Politics of Disablement*, 48. Simi Linton, *Claiming Disability: Knowledge and Identity* (New York: New York University Press, 1998), 11.

¹³⁰ Tom Shakespeare, *Disability Rights and Wrongs* (New York: Routledge, 2006), 158.

¹³¹ Shakespeare, *Disability Rights*, 162.

¹³² Braddock and Parish, “Institutional History,” 11.

economy.¹³³ The charity organization movement is credited with creation of the professional field of social work, academic journals, public welfare institutions on the state and national levels, employment for women, and an efficient means to transition people from assistance to independent living.¹³⁴

COS records also attest to resistance on the part of people who applied for aid, by engaging in complex strategies of resistance which included presenting themselves as they thought COS visitors wanted to see them to improve their chances of receiving assistance, offering alternative solutions to COS advice, and sometimes outright refusal to comply. In response, COS “friendly” visitors turned to compulsion by refusing to provide referrals for aid. Presenting themselves as they thought friendly visitors would want to see them required a high level of social proficiency:

In the ways they represented the causes of their misfortune, histories, living conditions, and needs, as well as their personal characters and gratitude, the poor further learned to adapt to the new rules of charitable relief, sometimes seemingly knowing the new standards better than the investigators did.¹³⁵

This involved a fine line. If they seemed too wholesome, then the visitors might conclude that there was not real need; on the other hand, if they presented too destitute, they could be accused of fraud. Impoverished people also resisted COS advice to institutionalize their family members. They viewed themselves as caretakers and valued the contributions of disabled family members.¹³⁶ Further, institutionalization isolated family members due to a lack of information

¹³³ Lloyd C. Taylor, “Josephine Shaw Lowell,” 349-350.

¹³⁴ Stephen T. Ziliak, “Kicking the Malthusian Vice: Lessons from the Abolition of “Welfare” in the Late Nineteenth Century,” *The Quarterly Review of Economics and Finance* 37 (1997): 456-457. Ziliak also lists the detrimental effects of charity organization: negative relationships between impoverished people and charity organization visitors, discouragement of re-marriage for widowed women leaving them alone to provide for their families, contributing to a further ideological divide between people in different social classes, rather than bringing them together, and the inability to assist those who were able to work to become economically independent, the last two being explicitly stated goals of the charity organization movement.

¹³⁵ Ruswick, “Just Poor Enough,” 271.

¹³⁶ Abel, “Valuing Care,” 39-40.

about institutionalized family members, the location of institutions, and the time and cost to visit family members.¹³⁷ Caregivers also disagreed with the burgeoning medical industry and its sometimes incorrect diagnoses; they viewed themselves as uniquely qualified to understand and care for their family members' needs.¹³⁸ Impoverished persons also took the little aid that was provided and made their own choices as to what would best suit their needs. Relief agencies would provide a dollar's amount of either food or coal per week and food aid consisted of "only flour, potatoes, or rice."¹³⁹ People would take the small amount of coal provided through relief agencies and sell it to purchase necessities of their choice, illustrating that what was often viewed as disingenuousness by COS workers was in reality another important site of resistance.¹⁴⁰

Although the specter of institutionalization loomed over the lives of poor and disabled people, the actual rates of institutionalization may have been much lower than previously thought. COS intake forms attest to the fact that caretakers resisted institutionalization of disabled family members. This leaves the dichotomy between disabled people remanded to charitable care and the medicalization of disability which sought to "cure" disabled people and return them to full participation in the economic sector may be overstated. The concept of charity played an integral role in the fundamental idea of charity organization—that all people should be "contributing members" of society—which emerged and waned in a relatively short amount of time in the late nineteenth century.¹⁴¹ One would expect to find clear lines in Gurteen's writings that view people with disabilities as unable to work and consign all disabled people to "indoor relief"—support only within institutions. While Gurteen may have constructed disabled people

¹³⁷ Ibid., 41.

¹³⁸ Abel, 39-41

¹³⁹ Katz, 47-48.

¹⁴⁰ Katz, Poorhouse, 47-48.

¹⁴¹ This is an especially problematic idea that warrants further study and explanation but remains outside of the scope of this study.

as the cause of poverty late in *Handbook*—a characterization which hounds disabled people today—his earlier arguments do not draw sharp distinctions between disabled and non-disabled workers. Charity organization volunteers did threaten to withhold care in order to compel caretakers to institutionalize disabled family members; however, as COS records also show, families resisted their effort. Many disabled people remained within their families and, as COS intake forms attest, were valued for their contributions to the household and cared for and loved by their families. For all of his reprehensible notions about disabled people, Gurteen articulated the kernel of an idea that has proved to be elusive for many disabled people today: the full inclusion as participating members of society which includes the right to work and ultimately, the valuing of disabled bodies and minds within and outside of the formal economic sphere. According to the COS's own records, caretakers valued their disabled family members' unpaid contributions to the family. At the turn of the century, segregated care of disabled people and then, the transfer of their care to the state may have been one of the most damaging, long-lasting effects for disabled people. The confluence of ideas in the nineteenth and at turn of the twentieth century set in motion the arc that resulted in limitations to income and qualification for life-sustaining care that Paul Longmore faced at the success of his labor.

Conclusion

This study explored the concept of charity through the phenomenon of charity organization in the United States in the late nineteenth century under the working hypothesis that charity organization would show a clear demarcation of disabled people as the “deserving” poor and, thus, eligible for and commended to charitable care. Since charity organization is known for its Social Darwinist approach, this study explored Darwin's work where he applied his theory of

evolution from *Origin of the Species* to human beings in *The Descent of Man*. What this study found was a denigration of disabled people not only in Gurteen's work, but also in the work of Darwin himself and an explication of a problematic dynamic: the simultaneous disparagement and use of disabled people as the objects of sympathy and altruism on the part of the middle- to upper-class. This objectification of a group of people as objects of altruism rather than recognizing or questioning external, systemic causes of poverty creates and allows marginalization of groups of people. For this study, this dynamic has its roots in the so-called humanitarian ethos derived from the altruistic care of the vulnerable in society—widows, orphans, aliens, and Levites—in Deuteronomy. Since widows, orphans, aliens, and Levites are thought to exist outside of the primary structures of “ancient Israelite society,” the next chapter will explore what is considered the most important component of Israelite society, the *bēt ʿab*.

CHAPTER 2

Introduction

This chapter examines the literature which treats the social structure of “ancient Israel” with particular attention to definitions of the *bēt ʿab*, the use of biblical texts in those definitions, and, when it is included, the presumed relationship, of widows, orphans, aliens and Levites to the *bēt ʿab*. Almost every discussion of the “ancient Israelite” social structure in contemporary scholarship outlines it in terms of kinship groups related by blood and marriage and comprised, in hierarchal order, by the tribe, family or clan, and the household or *bēt ʿab*.¹ The smallest unit of the social structure, the *bēt ʿab*, presumed to be an unquestionable fact of Israelite society, is considered the most important component of Israelite society for the inclusion and well-being of the individual.² This chapter will show that little agreement exists regarding the fundamental structure of the *bēt ʿab*. The multiple conceptions of the household lead to different conclusions about who served as the head of household, several uses of the concept of fictive or pseudo-kinship, and the recognition, explaining away, or outright omission of texts that contradict a

¹ Joseph Blenkinsopp, “The Family in First Temple Israel” in *Families in Ancient Israel*, ed. Leo G. Perdue, Joseph Blenkinsopp, John J. Collins, Carol Meyers, The Family, Religion, and Culture (Louisville: Westminster John Knox, 1997), 48-103. Norman K. Gottwald, *The Tribes of Yahweh: A Sociology of the Religion of Liberated Israel, 1250-1050 B.C.E.*, BibSem 66 (Sheffield: Sheffield Academic Press, 1999). Carol L. Meyers, *Discovering Eve: Ancient Israelite Women in Context* (New York: Oxford University Press, 1988). Carol L. Meyers, “To Her Mother’s House’: Considering a Counterpart to the Israelite *bēt ʿāb*,” in *The Bible and the Politics of Exegesis: Essays in Honor of Norman K. Gottwald on His Sixty-Fifth Birthday*, ed. David Jobling, Peggy L. Day, and Gerald T. Sheppard (Cleveland: Pilgrim Press, 1991), 39-51. Carol L. Meyers, “The Family in Early Israel” in *Families in Ancient Israel*, ed. Leo G. Perdue, et al., The Family, Religion, and Culture (Louisville: Westminster John Knox, 1997), 1-47. Roland de Vaux, *Ancient Israel: Its Life and Institutions* (New York: McGraw Hill, 1961).

² Blenkinsopp, “Family in First Temple Israel,” 48. Gottwald, “Tribes of Yahweh,” 316. Carolyn Leeb, “The Widow: Homeless and Post-Menopausal,” *BTB* 32 (2002): 160. Meyers, *Discovering Eve*, 122. Meyers, “Family in Early Israel,” 1-2. Naomi Sternberg, “The Deuteronomic Law Code and the Politics of State Centralization” in *The Bible and the Politics of Exegesis*, ed. David Jobling, et al. 46-49. Roland de Vaux, *Ancient Israel*, 85.

composite construction of the Israelite social structure. The assumed exclusion of widows, orphans, aliens, and Levites from Israelite society rests upon a questionable construction of Israel's social structure that, in turn, creates and legitimizes a narrative of poverty and powerlessness. Treatments of widows, orphans, aliens, and Levites—together and individually—cannot escape this paradigm of the Israelite social structure. Discussion regarding Levites separate from their association with widows, orphans, and aliens holds the most potential for thinking about the formulaic references to them in Deuteronomy. This chapter will first show the wide variation among theories of the Israelite household. Next, this chapter will explore separate treatments in the literature about widows, orphans, aliens, and Levites and begin to explore different ways of thinking about each member of the formalized trope in Deuteronomy. Lastly, this chapter will show how some treatments of widows, orphans, aliens, and Levites intersect with and propagate stereotypical views of people with disabilities.

2.1 Definitions of the *Bēt ʿab*

This section will show that no two methodological approaches define the *bēt ʿab* in precisely the same way. Some define the household as a large extended family while others consider the household comprised by something akin to a modern-day nuclear family.

2.1.1 A *Historical Approach*

Roland de Vaux views the biblical text as a source for historical evidence about Israelite society and seeks to understand Israelite history in terms of its larger ancient Near Eastern context. Part historical reconstruction, part sociological inquiry, de Vaux compares and contrasts Israel's social structure with that of contemporary Arab people on the basis of shared nomadic or

semi-nomadic origins in order to reconstruct Israel's early history. De Vaux argues that Israel's semi-nomadic origins necessitated tribal affiliation in order to survive in the desert; he defines the tribe in terms of shared history as "an autonomous group of families who believe they are descended from a common ancestor."³ Once settled, the tribal structure dissolved in favor of smaller, settled family groups who maintained the survival mentality and sense of responsibility for their members.

De Vaux defines the *bēt ʿab* as the family unit made up of the father, his spouse(s), married and unmarried children, and servants.⁴ For de Vaux, the family, like the tribe, is determined by people "united by common blood and common dwelling-place" who had a responsibility to one another.⁵ Though de Vaux acknowledges the flexibility of *bēt ʿab* language, he reads the designation, *bēt ʿab*, quite literally.⁶ He affirms the patriarchal control of the household by the father who exercises "absolute authority" over his wife, children, and married sons and their wives. While de Vaux assumes that servants, resident aliens, widows, and orphans were *de facto* members of Israelite households, the father's relationship to them shifts from "absolute authority" to protector.⁷ Thus, he asserts their place within the household and their dependent relationship within Israelite society.

When de Vaux provides a more detailed description of widows and aliens in his study, their relationship to the family significantly changes. As de Vaux addresses the status of women in Israelite society, he tempers the absolute authority of the patriarch by recognizing women's contributions to the survival of the household and the status gained by their important work.

³ Roland de Vaux, *Ancient Israel*, 4.

⁴ de Vaux, 7-8.

⁵ Ibid., 20.

⁶ de Vaux contends that *bēt ʿab* can at once describe the entire nation (the *house* of Israel), a large number of people (the *house* of Judah), or kinship in a broad sense, so broad, he concludes "the family was the same group as the clan, the *mishpāhāh*." (See de Vaux, *Ancient Israel*, 20-21.).

⁷ De Vaux, *Ancient Israel*, 20.

However, noting Judith as the exception, de Vaux characterizes widowed women, especially those with children, as “piteous” and “therefore protected by religious law and commended to the charity of the people, together with orphans and resident aliens—all those, in fact, who no longer had a family to assist them.”⁸ According to de Vaux, charity is the only alternative to the *bēt ʿab*.⁹

In de Vaux’s understanding, though resident aliens eventually gained acceptance, freedom, and some—though not full—civil rights, de Vaux argues that aliens were reduced to daily wage earning in early Israelite history, since Israelites owned all of the land. A literal, historical acceptance of Israel’s conquest in the biblical text undergirds the supposed poverty of aliens. Thus, de Vaux can maintain that they were poor, and “grouped with the poor, the widows and the orphans, all the ‘economically weak’ who were recommended to the Israelites’ charity.”¹⁰ Not only do widows, orphans and aliens depend upon the patriarch for protection, they are also the objects of benevolence by all Israel.

2.1.2 A Sociological Approach

Norman K. Gottwald identifies three difficulties in studying Israelite social structure: the use of late biblical texts to reconstruct early Israelite history, the absence of sociological and anthropological work on kinship, and the seemingly inconsistent use of the terminology “tribe,” “clan,” and “family” in the biblical text. Citing de Vaux’s study among others, Gottwald

⁸ Ibid., 40.

⁹ Gurteen’s sole focus on work not assistance preempted all concerns with keeping the household intact. While other charity workers understood the importance of keeping families together, Gurteen proposed incarnating disabled or aged family members in asylums in order to free women to seek work outside of the home. In Gurteen’s world, there was not group deserving of public charity. For Gurteen, those who could not engage in paid labor were the cause of poverty in society. Darwin, on the other hand, notes that human societies through cooperation and sympathy interrupt “the struggle for life.”

¹⁰ Ibid., 74-75.

critiques their focus on Arabic-speaking groups alone and their limited use of available resources from sociology and anthropology. He recognizes that the tribe-clan-family paradigm is just that—a scholarly construction—thought to aid in the understanding of Israelite society and, thus, not as self-evident in the biblical text as supposed. Gottwald seeks, instead, to develop a paradigm based on early biblical texts (and later ones as he deems necessary), to bring sociological and anthropological work to bear on his paradigm, and to provide a diachronic view of Israelite social structure.¹¹

Determined by residence and kinship, Gottwald defines the *bēt ʿab* as “an extended family...composed of two or more nuclear families and...all the generations living at any one time in a given lineage” up to five generations.¹² He lists the members of the *bēt ʿab* as “the family head and his wife (or wives), their sons, and unmarried daughters, the sons’ wives and children, and so on, as far as the biological and affinal links extended generationally.”¹³ For Gottwald, the *bēt ʿab* is ultimately a residential group made up of living family members; therefore, he identifies the head of the *bēt ʿab* as “the oldest living male of the lineage” a position that, upon his death, passed to the oldest son.¹⁴

Gottwald also notes the imprecise use of *bēt ʿab* language across biblical texts. As a solution, he proposes that any use of the phrase *bēt ʿab* aside from the smallest unit of Israelite society is strictly metaphorical. Gottwald maintains that *bēt ʿab* language that refers to the tribe establishes a pseudo-kinship structure as a basis of solidarity for all of Israel where the eponymous ancestors serve as the “prototypical” heads of household. However, Gottwald makes a distinction between what he considers a political fiction and an actual *bēt ʿab*. For Gottwald,

¹¹ Norman K. Gottwald, *Tribes of Yahweh*, 237.

¹² Gottwald, 285.

¹³ Ibid.

¹⁴ Ibid., 286.

the concept of pseudo-kinship “confus[es] an actual *bēth-’āv* as a living group or as a lineage within a living group, on the one hand, with the *bēth-’āv* as a schematic social fiction, on the other hand.”¹⁵ He defines the “true *bēth-’āv* as a functional living group” and the authority figure as the living or “operational” head of the household.¹⁶ Gottwald clearly argues against understanding the *bēt ʿab* in terms of the pseudo-kinship structures of the founding ancestors. The true *bēt ʿab* for Gottwald consists only of the living members of the family group.

Gottwald somewhat amended this conclusion as he reflected upon the twenty-five-year anniversary of *The Tribes of Yahweh*.¹⁷ However, he remains committed to the idea of equal distribution of goods in his reconstruction of early Israelite society:

In sectors of Israel where chieftains may have held office, a portion of goods produced would be supplied to the chief for ceremonial purposes and to redistribute as necessary among the needy. Priests were similarly recompensed for their services. In short, the surpluses of free producers were not supporting the state and empire but were directly consumed or bartered or shared in a system of mutual aid.¹⁸

Although Gottwald admits imprecision in his accounting of equality in Israelite society, he holds to the clan-tribe-household structure and its supposed protection of vulnerable members of Israelite society:

My argument for the social equality of Israelites was muddled and imprecise, since there is evidence of status and wealth differentials; but the society was clearly less hierarchical than in the surrounding states, and it proved extended family and clan-based “social safety nets” for those in greatest need.¹⁹

¹⁵ Ibid., 285.

¹⁶ Ibid., 287, 290.

¹⁷ See “Revisiting the Tribes of Yahweh after Twenty-five Years” in volume 2 in Norman K. Gottwald, *Social Justice and the Hebrew Bible*, 3 vols. Center and Library for the Bible and Social Justice Series (Eugene, OR: Cascade, 2016), 98-107.

¹⁸ Gottwald, *Social Justice*, 2:15.

¹⁹ Ibid., 2:100.

In his reflections after twenty-five years, Gottwald recognizes the multiple forms of Israelite spirituality, including ancestor worship, in this later work which aligns him in some ways with Blenkinsopp (See 2.2.4 A Canonical Approach.):

Archaeological and textual studies have revealed beliefs and practices in pre-exilic Yahwism that were later ruled out of bounds in the developing monotheism in restored Judah. Among these eventually forbidden elements were ancestor veneration, necromancy, divination, iconography, fertility rites at local shrines, and even a likely consort for Yahweh. These religious features, once thought of as Canaanite “corruptions” of true Yahweh worship, are now seen as having been accepted among many, in not all Yahwists, in pre-exilic times.²⁰

Gottwald asserts that *Tribes* has two primary audiences, biblical scholars and “the wider world,” the church and synagogue.²¹ For biblical studies, Gottwald asserts that *Tribes* shows that Israelite society practiced social justice:

Traditional academic study of the Bible had explained the motifs of social justice in early Israel either as a function of its culturally undeveloped pastoral nomadism or as the miraculous ‘spin off’ of its revealed religion. With theology put to one side, an actual Israelite society could be seen embarked on an intentional quest for corporate justice, a project to which its innovative religious ‘ideology’ lent critical support. Biblical notions of social justice were no longer simply rootless ‘ideals’ but beliefs and practices ‘at home’ and ‘at work’ within actual communities. In sum, *Tribes* encourages left-oriented Christians and Jews to reclaim biblical tradition as a relevant resource for their own hopes and endeavors for positive social change.²²

Of the implications of *Tribes* for the church and synagogue, Gottwald returns to a theological perspective when discussing his idea of the “day of justice:”

So I ask: where is this ‘elsewhere’ of the day of justice to be located? Is it a ‘utopia’ that is literally ‘no place’ at all, or is it an ‘elsewhere,’ a time and place that is ‘not yet’ but ‘has been’ and ‘could yet be?’ This hoped and longed for day of justice is in my view ever present as the hidden possibility of every moment.²³

Gottwald concludes:

²⁰ Ibid., 2:101.

²¹ Ibid., 2:99.

²² Ibid., 2:103.

²³ Ibid., 2:105.

Finally, was early Israel actually an instance of elsewhere and the day of justice, or in thinking so, are we deluding ourselves with wishful thinking? It is my judgment that such an elsewhere, such a day of justice, was approximated in early Israel, whatever social organizational label we wish to give it.²⁴

Gottwald remains deeply committed to his social scientific approach to Israelite society and to the ideas that we can know the details of Israelite society and that that society had a robust conception and practice of social justice.

2.1.3 A Canonical Approach

Joseph Blenkinsopp takes a canonical approach to the *bēt ʿab* in that he considers the ideology that impacted the choice and order of the biblical texts from which he derives his composite picture of the family household. Blenkinsopp's designation, "ancestral household," indicates a decidedly different understanding of the function of this basic social unit in Israelite society. Blenkinsopp affirms the three-fold social structure in ancient Israel and defines the ancestral household as the basic component of the tribal structure comprised by a nuclear family and two to four children. He goes on to delineate the typical household as containing "some or all of the following: grandparents, the families of grown children...an adopted child or adopted children, a divorced adult daughter who had returned to the paternal homestead, male and female servants or slaves, and other dependents."²⁵ He defines dependents as resident aliens and slaves who were, albeit ideally, members of the household signified by their participation in festivals and Sabbath rest which is clearly different than recipients of charity.

Blenkinsopp conceives of the individual Israelite situated at the intersection of horizontal and vertical dimensions of familial relations. The horizontal line represents the family members

²⁴ Ibid., 2:106.

²⁵ Joseph Blenkinsopp, "Family in First Temple Israel," 52.

detailed above in what Blenkinsopp terms “siblings and more distant kin,” but the vertical dimension of Israelite family structure positions the individual among “past and future members of the kinship network.”²⁶ This vertical dimension situates the individual Israelite within the next larger kinship group, the clan, where the annual clan sacrifice emphasized the unity among the living and dead members of this larger kinship group beyond the *bēt ʾab*.

According to Blenkinsopp, this type of symbolic solidarity operated on the level of the *bēt ʾab* as well. The very real need to own and hold land becomes intertwined with carrying on the name of the deceased head of the household; honoring father and mother carried out through burial on an ancestral plot, performing mourning rites, and setting up a funeral stone, preserves the physical and symbolic perpetuation of the household. Thus, Blenkinsopp argues, deceased ancestors were remembered and even deified as *elohim*.²⁷ Blenkinsopp ends his section on the ancestral household with the concept of fictive kinship. He states:

a kinship system such as existed in ancient Israel transcends the obvious biological aspects by providing a network or grid for the social location of the individual and the determination of expectations and roles...By the same token, it provided a measure of emotional security and stability for all members of the household, including those not biologically affiliated, the only condition being a willingness to live by the consensual ethic and ethos of the larger kinship group.²⁸

Blenkinsopp concludes that the ancestral household extends beyond blood ties as an economic unit among several other houses and, although a shared ancestor may have located an ancestral household within the clan, geographic proximity of households may have been just as important as kinship ties.²⁹

²⁶ Blenkinsopp, “The Family,” 50.

²⁷ Ibid., 50, 81.

²⁸ Ibid., 53. For support, Blenkinsopp appeals to Fensham’s article. Charles F. Fensham, “Widow, Orphan, and the Poor in Ancient Near Eastern Legal and Wisdom Literature,” *JNES* 21 (1962): 129-139.

²⁹ Ibid.

Blenkinsopp presents the familiar cadre of biblical texts to define not only the *bēt ʿab* but also to illustrate and affirm the tripartite kinship structure of ancient Israel: the stories of Achan (Josh. 7:16-18), Gideon (Jdg. 6:15), and Abimelech (Jdg. 9:1-6). To this he adds the appointment of Saul as king (1 Sam 10:21), all of which, he contends, show the placement of the individual Israelite within the larger kinship structure.³⁰

For Blenkinsopp, the household as an ancestral household is but one aspect of the *bēt ʿab*. When he considers the *bēt ʿab* as an economic unit, the status of aliens and widows enters the discussion. Citing the woman of Shunem (2 Kgs 8:1-6), Naomi (Ruth 4:3, 9) and Judith (Judith 8:7), Blenkinsopp acknowledges that widows could inherit land but argues that they had no guaranteed legal right to do so.³¹ Here, Blenkinsopp refers his readers to Fensham's article which, in his estimation, establishes widows as the "charter members of the *personae miserae* class."³² Blenkinsopp credits the monarchy with the weakening of the family in Israel and counts aliens among "the chronically marginal class of people" would lose the protection of the household; further, since widows had no legal guarantee to inherit land, Blenkinsopp concludes, anachronistically, that they "were commended to public charity and the 'social security system' of the triennial tithe (Deut 14:29; 26:12-13)."³³ He goes on to reason that since women could not work for the centralized cult, they could only be employed as prostitutes or witches (!).³⁴ For Blenkinsopp, aliens were always dependent on the Israelite household for survival and widowed women had few options outside of the *bēt ʿab*.

³⁰ Ibid., 51.

³¹ Ibid., 55.

³² Ibid., 94, note 14.

³³ Ibid., 90-91.

³⁴ Ibid., 91.

Blenkinsopp's self-avowed canonical approach which takes into consideration the ideology involved in compiling the biblical text has little impact upon his assessment of widows, orphans, and aliens in Israelite society. While an ideological approach should question the understanding of this group of people, Blenkinsopp begins with the assumption of those before him that they are the poor and disenfranchised within Israel.

Blenkinsopp's vertical dimension of the *bēt ʿab*, however, radically alters the form and function of the family household. He provides a very different understanding of the *bēt ʿab* as the group that worshiped the familial ancestors. For Blenkinsopp, the *bēt ʿab* is the locus of both the living and the dead. This extends the form of the *bēt ʿab* from that of the family living together, whether nuclear or extended. In the same way, the function of the household takes on a decidedly religious aspect that seems at odds with Deuteronomy's pronounced monotheism. The radically different aspect of Blenkinsopp's definition of the *bēt ʿab* exposes the wide variation and lack of agreement upon exactly what comprises this foundational societal structure credited with the dependency and poverty of widows, orphans, and aliens.

2.1.4 An Archaeological Approach

Carol Meyers addresses the *bēt ʿab* in two sources that are ten years apart.³⁵ With slightly different emphases, both agree in content about the *bēt ʿab*; however, her earlier work provides more detail about the make-up of the extended or compound families inhabiting groups of houses around a shared courtyard. In both, Meyers draws her evidence for her definition of the *bēt ʿab* from social scientific, archaeological, and biblical sources. Drawing from social science theory about the modern family, Meyers takes a functionalist approach, emphasizing the tasks families

³⁵ Carol L. Meyers, *Discovering Eve*, 1988 and "Family in Early Israel," 1-47.

perform to realize shared goals, in this case survival. Meyers prefers the term “family household” in that the *bēt ʿab* includes not only the persons residing together but also the buildings, tools, land, livestock and servants, and hired labor necessary for the family’s shared goal of survival.³⁶ Archaeological discovery of “four room” or pillared houses surrounding a central courtyard guides Meyers’ definition of the *bēt ʿab* as “the extended or compound family that inhabited a residential unit of several linked dwellings.”³⁷ For Meyers, the pillared house proves that the family was larger than a nuclear family comprised by one married couple and their children. Rather, two to three pillared houses were joined together architecturally around a communal courtyard indicating that they formed multiple family dwellings.³⁸ These linked units could have housed an extended family headed by a married couple or a multiple family household that included two or more married couples, typically two brothers and their families.³⁹ Thus, the family household was a multigenerational, extended family headed by a senior married couple that extended vertically to children and grandchildren and horizontally to include siblings and their spouses, in short “all living persons.”⁴⁰ This extended family could also include more distant relations who had fallen on hard times, war captives, aliens, and indentured servants. Larger families formed in response to labor needs, infant mortality, and short life spans.⁴¹ In her later work, Meyers holds that extended or compound families, though not common, formed in early Israel due to labor requirements. For Meyers, the family household was always in flux somewhere between a nuclear family and assorted forms of the extended or compound family.⁴²

³⁶ Meyers, “Family in Early Israel,” 13-14.

³⁷ Meyers, “Family,” 19. For the discovery of the four room or pillared house, see Lawrence E. Stager “The Archaeology of the Family in Ancient Israel,” *BASOR* 260 (1985), 1-35.

³⁸ Carol L. Meyers, *Discovering Eve*, 133.

³⁹ Meyers, *Discovering Eve*, 133-134.

⁴⁰ Meyers, “Family in Early Israel,” 17.

⁴¹ Meyers, *Discovering Eve*, 137-38.

⁴² *Ibid.*, 134-135.

For Meyers, archaeological evidence coheres with some biblical texts, namely the story of Micah (Judg. 17-18), specifically Judges 18:22 which she translates, “men who were in the houses comprising the household of Micah,” the story of Gideon (Judg. 6 - 8, specifically 6:11) who worked his father’s land, and the incest laws in Lev 18-20.⁴³ Meyers concludes that biblical and archaeological evidence show that many families in ancient Israel were more than a nuclear family; however, due to conflict in the family, extended or compound families were rare and formed only when survival required it.

Within Meyers’ earlier discussion of the place of the individual in Israelite society and the exploitation of individuals, she makes a remarkable statement:

When the meaning of individual existence is so fully subsumed into the characteristics and exigencies of the groups on which the individual is dependent for survival, the possibility for dehumanizing or abusive behavior toward categories of individuals may in fact be nonexistent.⁴⁴

Granted that Meyers is arguing for recognition of women’s technical expertise, contribution, and thus, shared power within the Israelite household, this statement provides a counter argument to the idea that widows and orphans were only dependent members of the *bēt ʿab* for whom the patriarch exercised compassion and took under his care. Rather, a widow and her child or children were contributing members of the household. Of “the orphaning of children of near kin,” Meyers assumes their inclusion within the *bēt ʿab* and their situation as one among others that “would have lent distinctive character to individual extended-family households.”⁴⁵ For Meyers, the inclusion of related, orphaned children was not a matter of pity but enhanced the texture of the extended family.

⁴³ Meyers, “Family in Early Israel,” 17.

⁴⁴ Meyers, *Discovering Eve*, 123.

⁴⁵ *Ibid.*, 134.

In many ways Meyers shares the same assumptions about the place of aliens within Israelite society as low-level members included within the *bēt ʿab*; however, although Meyers includes aliens within the Israelite household on the same social level as captives and servants, she also points out that

identifying the familial structure and sometimes the non-familial supplements (servants, slaves, sojourners) to a household group does not provide automatic entree into what takes place within the household unit. The composition of the domestic unit is not a simple determinant of the interaction of its members or the range of individual and social needs that the household provides.⁴⁶

Here, Meyers allows for the possibility that inclusion within a *bēt ʿab* does not determine role or social status. While Meyers asserts that the household could include unrelated members, such as aliens, who “might reside with the household, participate in its functions, and affect its size,” in the end Meyers concludes that

the formation of households involving unrelated individuals was probably not normative or frequent. The regulations dealing with servants, slaves, and sojourners are probably concerned with economic developments during the monarchy when large landholders emerged.⁴⁷

For Meyers, the inclusion of aliens within Israelite households was not a regular occurrence and was likely limited to a particular, brief period within Israel’s history.

Moreover, Meyers makes a convincing argument for the existence of a counterpart to the *bēt ʿab* in Israelite society, the *bēt ʿēm*.⁴⁸ Absent from discussion of Israelite social structure, this term appears in the story of Rebekah (Gen 24.28), the book of Ruth (Ruth 1.8), and Song of Songs (Song 3.4; 8.2). Valences of this terminology show up in female images in Proverbs:

⁴⁶ Ibid., 131.

⁴⁷ Ibid., 137.

⁴⁸ Carol L. Meyers, “‘To Her Mother’s House,’” 39-51. Another example of terminology that refers to a household headed by a woman occurs in 1 Kings 17:17 where the widow of Zarephath is called the *בַּעֲלַת הַבַּיִת*. See also: Cynthia R. Chapman, *The House of the Mother: The Social Roles of Maternal Kin in Biblical Hebrew Narrative and Poetry*, ABRL (New Haven: Yale University Press, 2016) 51-74.

Woman Wisdom (Prov. 1-9) and the poem celebrating the worthy woman which concludes the book (Prov. 31.10-31). For Meyers, this language points to the existence of female agency and power within the Israelite social structure. Meyers points out that *bēt ʿēm* language occurs in portions of the biblical text with their own coherence and integrity; thus, *bēt ʿēm* language displays the consistency and stability that scholarship claims for the *bēt ʿab*.⁴⁹ According to Meyers, this language is significant in that it presents a female perspective within an otherwise male-centered text.⁵⁰ Not every household involved the protection of an adult Israelite male. Thus, the existence of *bēt ʿēm* language within the biblical text further destabilizes the idea that the *bēt ʿab* was the singular, consistent manifestation of the smallest social structure in Israel.

2.2 Difficulty Defining the *Bēt ʿab*

Using a variety of methodologies, no two scholars define the *bēt ʿab* in precisely the same way, and, yet, the social status and role of widows, orphans, and aliens as dependents within the *bēt ʿab*, (with one exception) remains uncontested. On the surface, there appears to be a consensus regarding the definition of the *bēt ʿab* as a multigenerational residential group extending vertically and laterally to include all living members of the family including those not related by blood ties or marriage. However, the review above shows that no two scholars define the *bēt ʿab* in exactly the same way. It is defined separately as a nuclear family, an extended family, a lineage, or all three. Another related difference is the delineation of the *bēt ʿab* as a living or an ancestral group. Some insist that it can only be understood as a living group, while for others, fictive kinship provides continuity with the living and the dead and situates the individual Israelite within a community of meaning. Along the same lines, some disagreement or

⁴⁹ Carol L. Meyers, "To Her Mother's House," 49.

⁵⁰ Meyers, "To Her Mother's House," 50.

lack of clarity exists in determining the head of the household as the fictive ancestor, the eldest living male or, perhaps, the adult son who takes care of his aged parents in a reversal of roles where the elder heads of the household may become dependent upon their eldest son.

Meyers highlights the contributions of women toward the shared goal of survival within the family household, emphasizing the need for every laborer in the household, including children. This recognition that the household required every available laborer opens a new way of thinking about widows and orphans in Israelite society. It becomes difficult to believe that widowed women and their children were not valued and had no contribution to make to the household. The assumption that, upon the death of her husband, the widow and her children were removed from the household is based upon an understanding of the *bēt ʾab* as a singular, stable entity in Israelite society. Meyers has made a strong case for the existence of the *bēt ʾem* as a counterpart to the *bēt ʾab* in Israelite society, though she attributes the small number of references to the *bēt ʾem* as a function of the androcentric nature of biblical texts.

The idea of fictive kinship, also called pseudo-kinship, functions in two distinct ways in scholarship about the *bēt ʾab*. First, it establishes the *bēt ʾab* within the larger kinship structure and the overarching narrative of Israel as a singular people. Gottwald exemplifies this understanding of fictive kinship. For Gottwald, fictive kinship refers to a familial identification with an Israelite ancestor though the lineage cannot be demonstrated, but Gottwald distinguishes this from the *bēt ʾab* which is for him a living, residential group. Second, fictive kinship situates the *bēt ʾab* within the clan which provides protection in times of crisis and provides a feeling of belonging and security within the *bēt ʾab* to those not related by blood or marriage. Blenkinsopp operates from this understanding of fictive kinship, and he finds within fictive kinship the grounding of the individual within Israelite society. The concept of fictive kinship undergirds the

assumption that aliens were incorporated into Israelite households. Yet, the idea of fictive kinship and the sense of belonging it provides could just as easily account for the belonging and acceptance of widows and their children in their deceased husbands' families, an idea Blenkinsopp's explanation of fictive kinship allows.

The tribe-clan-household structure is in the end an etic construction imposed from outside of the biblical culture that produced these texts but treated as an emic one derived from within biblical culture and text. Texts with their own separate contexts and emphases are marshalled in support of the prevailing theory of Israelite social structure and those that do not support a tripartite structure are acknowledged but then, explained away. The discussion becomes one about the "imprecision" and "inconsistency" of the language within the biblical text rather than the incoherence of, perhaps, a faulty paradigm.

Though few still subscribe to the idea of Israel's nomadic origins, de Vaux articulates the traditional and widespread understanding of the *bēt ʿab* in Israelite society. Later approaches show striking similarity to de Vaux's reconstruction of Israel's tribe-clan-family structure and the place of widows, orphans, and aliens within Israelite society. Setting widows and orphans apart from the larger Israelite population qualifies their status as active members of the Israelite community and cult. Aliens, bound by the law in Deuteronomy and integral to Israelite self-understanding since they were aliens in the land of Egypt, achieve a kind of honorary status that is effectively contained and co-opted by their ascribed dependency and impoverishment.

Gottwald does not address the place of widows and orphans in his discussion of the *bēt ʿab*. He does, however, address the situation of aliens as part of the growth of family households

through “births, marriages into the group, and incorporation of outsiders through adoption or the assimilation of *gērīm*, ‘resident aliens.’”⁵¹ Gottwald concludes

The *bēth-’āv* was thus the functional living unit gathered around a family head at any given moment, and it was, in a narrower and more definable sense, the lineage—i.e., all the biological descendants of a known common ancestor (distinguished from a fictitious ancestor), thus distinguishable from members of the living group who participated by marriage or by adoption or by incorporation.⁵²

Gottwald gives the impression that aliens participate as full members of the family. Thus, for Gottwald, the *bēt ʿab* is characterized by a certain amount of elasticity, apart from any ideas about fictive kinship groups, to define the bounds of the family by other means, namely adoption and assimilation.

Conversely, if such freedom existed in determining membership within the family, it is difficult to maintain that widows and their children had no ties, responsibilities, or contributions to make within a large living group. Scholarship typically cites the story of Tamar and Judah in Genesis 38 as proof that widows were ejected from the patrilocal family at the death of the husband or the failure of the levirate marriage; however, a central focus of Tamar’s story seeks to explain the illicit union between a daughter-in-law and her father-in-law which produced an heir within the Davidic lineage. Further, as Carol Meyers demonstrates, every family member including children contributed to the survival of the household.

Although Meyers seems to operate from the same assumptions in scholarship about widows, orphans, and aliens, she makes several moves that challenge the very foundations of those assumptions. For Meyers, if widows and orphans were in fact members of the *bēt ʿab*, they were not necessarily dependent members who required support from the wider Israelite

⁵¹ Gottwald, *Tribes*, 285.

⁵² *Ibid.*, 287.

community but fully integrated, contributing members of the household. Further, Meyers contends that aliens were not regular members of the Israelite household throughout Israel's history. If some aliens were members of Israelite households, their inclusion does not necessarily determine their status or role within the household. Further, the recovery of the *bēt ʿēm* provides an alternative to the single, overriding social structure of the *bēt ʿab* and calls into question the lone, compassionate patriarch who provides for dependent members of Israelite society.

2.3 “The Alien, the Orphan, the Widow, and the Levite” and the *Bēt ʿab*

While treatments of each member of the formulaic construction “the alien, the orphan, the widow” show little variation from the theme of landlessness and thus, impoverishment, studies about the Levite show more variation regarding references to the Levite in Deuteronomy. These wider understandings of the Levite are integral to reading texts about widows, orphans, and alien in Deuteronomy in a new way.

2.3.1 Widows

Much like the variation among definitions of the *bēt ʿab*, little agreement exists regarding the definition of a widow in the HB. She has no male family members left to care for her; she had male family members, but they refuse to care for her; she did not bear male children by which to secure her place in the household; she had sons, but they refused to care for her; extended family members refused to take care of her; without her husband, she no longer belonged within the family, and her place in society was contingent upon age and reproductive capability. The overwhelming theme in literature that treats widows outside of the formulaic references is the lack of attachment to a male which placed the widowed woman outside of the

Israelite kinship structure, resulting in landlessness and destitution.⁵³ Impoverishment, rather than a deceased husband, becomes the defining feature of widowhood:

According to the Bible, not every wife of a deceased man is a widow. If the woman returns to the house of her parents and the authority of her father, she is not a widow. She is a widow only as long as she remains independent of every family tie, and therefore, generally takes no share of the family property. Hence, the care of widows is a constant feature of the Old Testament.⁵⁴

This notion of widowhood in biblical studies is based upon work about terminology for widows from the field of Assyriology:

The Akkadian term *almattu* (and the Sumerian NU.MU.SU or MU.MA.SU) is a more restricted legal and technical term than is the English “widow”; it is not simply a “woman whose husband is dead, and who has not remarried.” The *CAD*, in its 1964 discussion of the term, defined the *almattu* as “...a married woman who has no financial support from a male member of her family—husband, adult son, or father-in-law—and who thus, on the one hand, is in need of legal protection, and on the other hand, may freely dispose of herself, either by contracting a second marriage or by embracing a profession.” The additional qualification that the *almattu*’s economic independence—her right to embrace a profession—was a consequence of her impoverishment was suggested by D.I. Owen in 1980: “The term NU.MU.SU, *almattu*,...was probably applied only to those women who, after the death of their husbands, were left homeless or without other means of support...Thus a woman who, after the death of her husband, continued to have adequate means of support (i.e., an estate, family, etc.) probably continued to go by the designation dam of her deceased husband. Only those left without means of support became part of the social-economic class designated as NU.MU.SU.”⁵⁵

⁵³ Harold V. Bennett, *Injustice Made Legal: Law and the Plight of Widows, Strangers, and Orphans in Ancient Israel* (Grand Rapids: Eerdmans, 2002): 37. Hans Jochen Boecker, *Law and the Administration of Justice in the Old Testament and Ancient East* (Minneapolis: Augsburg, 1980), 21. Pnina Galpaz-Feller, “The Widow in the Bible and in Ancient Egypt,” *ZAW* 120 (2008): 232-33, 252-53. Paula S. Hiebert, ““Whence Shall Help Come to Me?”: The Biblical Widow” in *Gender and Difference in Ancient Israel*, ed. Peggy L. Day (Minneapolis: Fortress Press, 1989), 130, 137. Carolyn Leeb, “The Widow: Homeless and Post-Menopausal” *BTB* 32 (2002): 161. John Rook “When is a Widow Not a Widow? Guardianship Provides an Answer,” *BTB* 28 (1998): 4 and “Making Widows: The Patriarchal Guardian at Work” *BTB* 27 (1997): 1. Karel van der Toorn, “Torn between Vice and Virtue: Stereotypes of the Widow in Israel and Mesopotamia” in *Female Stereotypes in Religious Traditions*, ed. Ria Kloppenborg and Wouter J. Hanegraaff, *SHR* 66 (Leiden: Brill, 1995), 2.

⁵⁴ Hans Jochen Boecker, *Law and the Administration of Justice*, 21.

⁵⁵ Martha T. Roth, “The Neo-Babylonian Widow,” 2.

Hence, the lack of financial support is attributed to biblical widows but without the concomitant options to remarry or take on a profession.⁵⁶ It is here that one finds the idea that financially stable or wealthy widows are not “real widows.”

Several subsequent themes emerge in this literature: an instantaneous detachment from her family by marriage, vulnerability and the need for protection, control of a widowed woman’s sexuality through levirate marriage, and the widow as threat. A ubiquitous assumption exists in the literature that at the death of her husband, his wife and sometimes even their children were no longer part of her household by marriage; however, there is no supporting evidence given for this assumption. The lack of a male protector is one facet of the presumed vulnerability of widows.⁵⁷ Early work about widows reinforced this assumption: “When her husband died, a woman was alone. A husband functioned as a patron or protector to his wife in the ancient world. Thus, a woman had identity and definition in the social hierarchy only in relation to her man.”⁵⁸ Further, “The *’almanah* was a woman who has lost her man and is consequently an ‘un-embedded’ woman. Since she is no longer under the guardianship of a man, that is, she has become peripheral to her dead husband’s kin group.”⁵⁹ Typically, a widow “is referred to as a miserable and lowly element in the society where she dwells” due to her status as “an outsider in the paternal household that she joined when she married, as well as from not having a male patron in that household, who was meant to protect her from injury there.”⁶⁰ Indeed, the Israelite

⁵⁶ Harold V. Bennett, *Injustice Made Legal*, 37. Galpaz-Feller, “Widow in the Bible,” 232-33. Leeb, “Homeless and Post-Menopausal,” 160. Only Rook begins with the assertion that widows had no living male relatives to support them, purporting to trace the changing idea of widowhood into the monarchy. See Rook, “Guardianship,” 5-6.

⁵⁷ Fensham, “Widow, Orphan, and the Poor,” 136. Galpaz-Feller, “Widow in the Bible,” 234. Rook, “Guardianship,” 4.

⁵⁸ Rook, “Guardianship,” 4.

⁵⁹ John Rook, “Making Widows,” 10-11.

⁶⁰ Galpaz-Feller, “Widow in the Bible,” 234. Prior to this general characterization of widows, Galpaz-Feller gives six instances to the contrary: Micah’s mother (Judg. 17:1-6), Abigail (1 Sam. 25:42), the Shunammite woman (II

household and Israelite society as a whole was a dangerous place. A widow's economic well-being is predicated upon her attachment to a male, even if that male is a male child:

A woman's economic well-being was directly related to her link with some male. Though a married woman may have owned some property in the form of her dowry, she could not have supported herself on that alone, if at all, when her husband died. Ordinarily, the widow's maintenance would have been the responsibility of either her sons or her father-in-law. When these male persons were non-existent, the widow's connection to the kinship structure was severed.⁶¹

Still, having a male child did not firmly secure her place in the household:

Upon the death of her husband, the fragile tie to his family was likely to be broken, unless she had given birth to a son in the household. Her son would become part of the household in a way she never could be.⁶²

This instantaneous estrangement from her family by marriage is thought to be a facet of Near Eastern society where "the wife of a deceased man and her children must go back to the house of her father where they are protected."⁶³ Israelite society, on the other hand, is a patrilocal society where a woman assimilates to the household of her new husband, a feature thought to distinguish Israelite society from surrounding cultures.⁶⁴ That the loss of a husband would sever the tie between his wife and the family deeply undermines this otherwise unquestioned concept of a patrilocal society.

The law of levirate marriage is thought to provide a way for a widow to remain attached to the marriage household.⁶⁵ However, this option assumes that the widowed woman is still within child-bearing age:

The institution of the levirate marriage made it possible that her fertility could build up the 'house' of her husband's family, while the birth of a child would provide the bond which would give her a secure place within the household. This

Kgs 8:103), Naomi (Ruth 4:3-9), the illegal seizing of a widow's field (Prov. 15:25), and Job 24:3 showing a widows cultivation of a field she owned.

⁶¹ Paula S. Hiebert, "Biblical Widow," 137.

⁶² Carolyn Leeb, "Homeless and Post-Menopausal," 161.

⁶³ Fensham, "Widow, Orphan, and the Poor," 136.

⁶⁴ Fensham, "Widow, Orphan, and the Poor," 136.

⁶⁵ Rook, "Making Widows," 11. Leeb, "Widow," 161.

is the circumstance envisioned by the Deuteronomic description of this legal requirement, which is said to be in effect “when brothers live together” (Deut. 25:5-10).⁶⁶

Levirate marriage is also cited as the reason that texts do not refer to Tamar, Ruth, or Naomi, each whose husband has died, as an *álmanah*.⁶⁷ However, levirate marriage does not always appear where one might expect to find it.

The widow is defined as a woman whose sexuality needs to be controlled, sometimes a defining feature of her new status: “The core circumstance which causes a woman to be referred to as *álmanah* then is the lack of a guardian who will not only support but also control access to her sexuality.”⁶⁸ Widows are infantilized: “In that patriarchal society, she is a woman who is destitute because she has no male guardian.”⁶⁹ Her place in society depends upon her youth and health: “For a woman who was not the mother of a son, the future was indeed tenuous. If she was young and healthy (and perhaps, attractive or wealthy), her productive and reproductive power might be transferred to another household.”⁷⁰ The control of a woman’s sexuality quickly devolves into the unattached woman as threat:

Far more disquieting, from the male point of view, were the cases in which women became unattached, that is: without the jurisdiction of a paterfamilias. Such women represented the possibility of an order different from the reigning one. As such they were seen as a potential threat.⁷¹

⁶⁶ Leeb, “Widow,” 161.

⁶⁷ Ibid.

⁶⁸ Leeb, “Widow,” 160.

⁶⁹ Rook, “Guardianship,” 5.

⁷⁰ Leeb, “Widow,” 161. For Leeb, the widow whose situation is truly dire is “a post-menopausal woman whose husband has died,” the aged widow whose fertility cannot be transferred to another male. Leeb characterizes this woman as “homeless.” Leeb, “Widow,” 162.

⁷¹ Toorn, “Torn between Vice and Virtue,” 2.

Young widows are sexualized and “regarded as a potential seductress and enchantress”⁷² who might “shame her dead husband.”⁷³ Aged widows—and one could argue widows, in general—are desexualized and circumscribed as god-fearing, devoted women:

In return for the care the gods were believed to bestow on her, a true widow was supposed to be an example of devotion and godliness. It is not as though these virtues were set out before the widow as goals to be pursued. Rather, they were ascribed to the widow on the basis of a traditional image.⁷⁴

In fact, a positive view of levirate marriage argues against “the stereotype of the widow as a single, sexless woman independent of a male authority figure. By assuming her continued sexual life within a semi-married existence, Deuteronomy keeps widows within the social life of Israel.”⁷⁵

Disability studies provides insight into how widows are constructed. Just as disabled people are constructed by able-bodied people as, for example, people who cannot walk, cannot hear, cannot see, widows are defined in the literature in terms of what they lack:

Furthermore, even when widows are the subject of a study, their role is usually seen in negative or passive terms. A widow is woman who ‘does *not* have a husband’, who ‘does *not* have adult sons’, who ‘does *not* have economic resources for support’, who is the ‘recipient of charity’, and who ‘is taken as a wife by the levir (her brother-in law) after the death of her husband. She is in short, usually seen as an inactive character, largely defined by what she does not have, by what role she does not play in society, and by the actions that others take either upon her or upon her behalf.’⁷⁶

Few studies recognize the myriad of roles and situations a widow might have inhabited and the ideological function references to widows might have played.⁷⁷ One study reminds that:

⁷² Ibid., 10.

⁷³ Rook, “Making Widows,” 11.

⁷⁴ Toorn, “Torn between Vice and Virtue,” 7. See also, Roy L. Heller, “‘The Widow’ in Deuteronomy: Beneficiary of Compassion and Co-Option,” in *The Impartial God: Essays in Biblical Studies in Honor of Jouette M. Bassler*, ed. Calvin J. Roetzel and Robert L. Foster (Sheffield: Sheffield Phoenix Press, 2007), 7-8.

⁷⁵ Heller, “The Widow,” 2

⁷⁶ Heller, “The Widow,” 1-2.

⁷⁷ Only two studies explore the ideological function of the widow as poor: Heller, “The Widow” and Toorn “Torn between Vice and Virtue.”

In reality, not all widows were poor. The biblical tradition knows several who can hardly be regarded as impecunious. The very personification of the rich widow is Judith, whose husband left her ‘gold and silver, and men and women slaves, and cattle and field’ (Judith 8:7)...the Hebrew word *’almānâ* denotes the woman whose husband has died; it need not imply poverty or a lack of male support.⁷⁸

And again,

It should also be remembered that the fixed image is liable to give a distorted view of the historical reality. Many widows will have lived in a way that did not fit the image of exemplary devotion. Nevertheless, the public tended to perceive her in conformity with the idea. The devout widow is a cliché that has influenced the perception so deeply that there was little room for a reality that did not fit the pattern.⁷⁹

In Deuteronomy, in particular, references to widows served a “triple rhetorical function:” to uphold the stereotype of the impoverished widow in need of support, align widows’ behavior with deuteronomic precepts, and to incorporate the young widow’s fertility into the family by marriage through levirate marriage.⁸⁰

2.3.2 Orphans

Infants and children and themes involving children, such as fertility and securing an heir, play an important role in the biblical text. There is also a strong tradition of adoption or obtaining a surrogate to secure an heir.⁸¹ Key figures in Israel’s history, Moses and Esther, were adopted,

⁷⁸ Toorn, “Torn between Vice and Virtue,” 4, 5. Yet, Toorn still holds the idea that the temple, like its Mesopotamian counterpart, “offered a kind of social security to widows” and that “the redistribution of tithes, form which the widow was to profit (Deuteronomy 14:28-29), was coordinated by the temple administration (cf. Deuteronomy 26).” Toorn, “Torn between Vice and Virtue,” 4.

⁷⁹ Ibid., 10

⁸⁰ Heller, “The Widow,” 10-11. Heller recognizes the cooption of widows within the Deuteronomic text but also argues that deuteronomic law ultimately incorporated widows, who could have easily been marginalized, into the economic and social life of Israel.

⁸¹ For adoption, see pages 32-34 and for surrogacy, see pages 34-39 in John Byron, “Childlessness,” *Proceedings EGLBS & MWSBL* 30 (2010): 17-46. Mary F. Foskett, “The Accidents of Being and the Politics of Identity: Biblical Images of Adoption and Asian Adoptees in America,” *Semeia* 90-91 (2002): 135-144. Manuel Baelo Álvarez, “Levirate Marriage & Adoption in the Old Testament: Socio-Legal Role,” *Estudios Bíblicos* 75 (2017): 407-419.

and Abraham attempts to adopt an adult, Eliezer of Damascus, as his heir.⁸² (Some note the widespread practice of adoption in the ancient world of which Israel was a part and wonder at the lack of laws and narratives addressing adoption.⁸³) Adoption or the “God-as-Parent” and the “Children-of-Israel” metaphors govern the Israelite national story and their relationship to YHWH.⁸⁴ Fecundity of the land, animals, and people is a prominent feature of Deuteronomy, as well as the idea of future generations inhabiting an abundant land provided by their God—an idea in which children play an integral role. For example, in Deut. 7, the benefits of keeping the statutes and ordinances begin with the promises that if “*you obey* these tenets of justice and guard and keep them, the LORD your God will guard the covenant and the loving devotion which he promised to your fathers” (Deut 7:12). This promise continues in the next verse, loving them, multiplying the “*fruit* of your belly and the *fruit* of your ground,” the triad of grain, wine, and oil, and the young of their herds and flocks (Deut 7:13). In the next verse this blessing includes fertility of Israel’s people, notably *males* and females, *וְעִקְרָהּ וְעִקְרָהּ*, and their animals (Deut 7:14).⁸⁵

The motif of the orphaned child rising to greatness is integral to the story of the history of the Israelite people. At key points in the biblical text, orphans secure the future of the Israelite people. Joseph enters Egypt as a young person unattached to a family who becomes integral to the survival of the Israelite people during a famine. Pharaoh’s daughter presumes Moses is

⁸² Manuel Baelo Álvarez, “Levirate Marriage and Adoption in the Old Testament: Socio-Legal Role,” *Estudios Bíblicos* 75 (2017): 410. Álvarez adds Ephraim and Manasseh as adopted by Jacob in Gen. 48:5-6. John Byron, “EGLBS Presidential Address: Childlessness and Ambiguity in the Ancient World,” *Proceedings EGLBS & MWSBL* 30 (2010): 34.

⁸³ Byron, “Childlessness,” 32-34.

⁸⁴ Mary F. Foskett points out that in light of the prominence of adoption in the relationship between YHWH and Israel, there are only a handful of instances that may be considered adoption in the Hebrew Bible. Foskett, “Biblical Images of Adoption,” 137.

⁸⁵ Byron, “Childlessness,” 2. Byron cites this verse as proof that “childlessness is evidence not of the blessing of Yahweh but a curse;” however, he previously set up infertility as a specifically female problem in the HB without noting this exceptional reference to male infertility, the only instance of this form in the HB.

orphaned and adopts him into the royal household, an act that would allow him to become the future liberator of his people. Esther, adopted by Mordechai, saves her people from annihilation by plotting Haman.

An emerging field of study within biblical studies, children in antiquity, has the potential to provide new insights into orphans in HB and Deuteronomy, in particular. These studies of children in the Bible range from historical reconstruction of children's lives to methods that place children at the center of biblical interpretation.⁸⁶ For example, a monograph-length study uses sociological methods to situate children within the household in agrarian Israel.⁸⁷ Another study reconceptualizes the act of interpretation in a way that "allows the subject of 'children' to reconfigure what is at stake in the biblical text."⁸⁸ One study about children in Deuteronomy valorizes children's lives in the biblical text and in Deuteronomy, claiming that "the whole orientation of Deuteronomy is toward teaching in the family context," but does not mention orphans at all.⁸⁹ An important response to this valorization of children's lives in Deuteronomy questions that "the God of Israel holds a special humanitarian and universal concern for children."⁹⁰ And yet another study considers the importance of the "God-as-Parent" metaphor.⁹¹

⁸⁶ Danna Nolan Fewell, *The Children of Israel: Reading the Bible for the Sake of Our Children* (Nashville: Abingdon, 2003). Patrick D. Miller, "That the Children May Know: Children in Deuteronomy" in *The Child in the Bible*, ed. by Marcia J. Bunge, Terence Fretheim, and Beverly Roberts Gaventa (Grand Rapids: Eerdmans, 2008), 45-62. James Murphy, "Children in Deuteronomy: The Partisan Nature of Divine Justice" *BibInt* 20 (2012). Naomi Sternberg, *The World of the Child in the Hebrew Bible*, Hebrew Bible Monographs 51 (Sheffield: Sheffield Phoenix Press, 2013). Brent A. Strawn, "'Israel, My Child': The Ethics of a Biblical Metaphor," in *The Child in the Bible*, ed. by Marcia J. Bunge, Terence Fretheim, and Beverly Roberts Gaventa (Grand Rapids: Eerdmans, 2008).

⁸⁷ Naomi Sternberg, *World of the Child*.

⁸⁸ Danna Nolan Fewell, *The Children of Israel*, 24.

⁸⁹ Miller, "That the Children May Know," 54.

⁹⁰ Murphy, "Children in Deuteronomy," 2-3.

⁹¹ Brent A. Strawn, "'Israel, My Child': The Ethics of a Biblical Metaphor," in *The Child in the Bible*, ed. by Marcia J. Bunge, Terence Fretheim, and Beverly Roberts Gaventa (Grand Rapids: Eerdmans, 2008), 103-140.

This section will explore these studies and their treatment of orphans within discussion of children in the HB and Deuteronomy.

The primary term for children in Deuteronomy is בָּנִים, and occurs numerous times throughout Deuteronomy. The designation “little ones,” יְטָף, occurs seven times.⁹² Notably, the Hebrew term for “daughter/daughters,” בַּת/בָּנוֹת, occurs frequently in the text by comparison.⁹³ The term “orphan,” יָתוֹם, occurs only forty-two times in the Hebrew Bible: thirteen times in the Pentateuch and eleven—one-fourth of all occurrences—in Deuteronomy.⁹⁴ Of the eleven occurrences in Deuteronomy, nine occur in the “alien-orphan-widow” formula and two, though non-formulaic, occur in close proximity to widows and aliens.⁹⁵ Orphans are distinguished from “sons and daughters,” בָּנִים וּבָנוֹת.

Prior scholarly treatments defined orphans based upon their familial standing: “The conceptual framework for interpreting the term *yatôm* in Biblical scholarship has focused on whether the term refers to one who was bereft of a father or was parentless, i.e., the literal sense in English of an orphan.”⁹⁶ Some suggest that an orphaned child had a father who was unwilling

⁹² Murphy suggests that יְטָף can indicate dependents, such as elderly family members. Murphy, “Children in Deuteronomy,” 5. Both Miller and Murphy suggest that indicates not only young children but also the next generation. Miller, “That the Children May Know,” 48. Murphy, “Children,” 5.

⁹³ The term for “daughter” or “daughters” occurs in multiple contexts: an inclusive list designating “everyone” (Deut 5.14); everyone commanded to rejoice (Deut 12:12,18; 16:11, 14); specific admonitions and laws (no intermarriage of sons or daughters 7:3; not doing what other nations do 12:31; 18:10; not serving other gods 13:6 (7); the spurned daughter 22:16; a daughter not found to be a virgin 22:17; admonition against serving as cult prostitutes 23:18; sexual taboos 27:22; the curses 28:32, 42, 53, 56)

⁹⁴ Gershon Galil, “The Hebrew Inscription from Khirbet Qeiyafa/Neṭa’im: Script, Language, Literature and History.” *UF* 41 (2009), 213. Naomi Sternberg, *The World of the Child in the Hebrew Bible*, Hebrew Bible Monographs 51 (Sheffield: Sheffield Phoenix Press, 2013), 61.

⁹⁵ The formulaic occurrences include Deut. 14:29; 16:11, 14; 24:19, 20, 21; 24:21; 26:12, 13; 27:19. The non-formulaic occurrences appear in Deut. 10:18 and 24:17.

⁹⁶ Naomi Sternberg, *The World of the Child*, 61. Sternberg points out that children may have been orphaned due to parental abandonment or the death of both parents, likening them to modern-day “street children.” J. Renkema provides a short summary of the historical scholarly discussion surrounding this term in J. Renkema “Does Hebrew YTW M Really Mean Fatherless?” *VT* 45 (1995), 119-21. He—like so many others—concludes that

or unable to provide support,⁹⁷ while others view the relationship of the child to the family in utilitarian terms and that orphans possessed no such utility since they resided outside of the family structure:

Every child lived with his [*sic*] father, and was supported, as a matter of course, in return for the services he rendered. The case was, however, different with the fatherless. They needed special protection. The orphan was, therefore, classed with the Levite, the widow, the poor, and the proselyte, or the stranger, persons who as well as the minor possessed no property, and, therefore, needed special protection.⁹⁸

Orphans are often considered only in conjunction with widows in that the woman's status as a widow has in turn changed her and her deceased husband's children into "orphans," which assumes the definition of an orphan as "fatherless."⁹⁹ In these instances, the conceptualization of orphans in the biblical text is subject to all of the stereotypical views surrounding widows: they are landless, vulnerable, and poor; they exist outside of the household; the laws are meant to protect them and provide for their needs. Israel inherited this concern for the orphan, usually in conjunction with the widow, from its ancient Near Eastern milieu:¹⁰⁰

The protection of widow, orphan, and the poor was common policy of the ancient Near East. It was not started by the spirit of Israelite propheticism or by the spirit

the "widow and orphan are each in their own way the very picture of weakness and vulnerability." J. Renkema, "Hebrew YTWI," 121.

⁹⁷ Harold V. Bennett, *Injustice Made Legal: Deuteronomic Law and the Plight of Widows, Strangers, and Orphans in Ancient Israel* (Grand Rapids: Eerdmans, 2002), 55.

⁹⁸ Israel Lebendiger, "The Minor in Jewish Law," *JQR* 6 (1916): 459-493.

⁹⁹ Reinhard Achenbach, "gêr — nâkhrîi — tôshav — zâr : Legal and Sacral Distinctions Regarding Foreigners in the Pentateuch" in *The Foreigner and the Law: Perspective from the Hebrew Bible and the Ancient Near East*, ed. Reinhard Achenbach, Rainer Albertz, and Jakob Wöhrle. BZAR 16 (Wiesbaden: Harrassowitz Verlag, 2011), 32. Galpaz-Feller, "The Widow in the Bible," 234. Heller, "The Widow," 3. Walter J. Houston, *Contending for Justice: Ideologies and Theologies of Social Justice in the Old Testament* (New York: T&T Clark, 2006), 24. Christiana van Houten, *The Alien in Israelite Law*, JSOTSup 107 (Sheffield: JSOT Press, 1991), 95. Bruce V. Malchow *Social Justice in the Hebrew Bible* (Collegeville, MN: Liturgical Press, 1996), 301.

¹⁰⁰ Fensham and Malchow group the orphan and widow with the poor and characterizes ancient Near Eastern concern for them as "common Near Eastern policy." See Fensham, "Widow, Orphan, and the Poor in Ancient Near Eastern Legal and Wisdom Literature," *JNES* 21 (1962): 129 and Malchow, *Social Justice*, 299. Galpaz-Feller locates Israelite concern for widows and orphan as "part of the ancient norms of society." See Galpaz-Feller, "The Widow in the Bible," 232. Murphy points out that ancient Near Eastern law generally provided more protection for children in comparison to Israelite law collections. See James Murphy, "Children in Deuteronomy: The Partisan Nature of Divine Justice" *BibInt* 20 (2012): 8.

of propheticism as such. From the earliest times on a strong king promulgated stipulations in connection with protection of this group. Such protection was seen as a virtue of gods, kings, and judges. It was a policy of virtue, a policy which proved the piety of a ruler.¹⁰¹

Often, this concern for orphan and widow is traced to the prologue and epilogue of the law collection of Hammurabi; however, care for widows and orphans as proof of a virtuous king have a much earlier provenance:

These motifs are often found in the proclamations of the Mesopotamian Kings. Urukagina/Uruinimgina, in the third millennium B.C.E., promises his god Ningirsu not to hand over the widow and the orphan to the powerful. Similarly, Urnamu, the lawgiver and reformer (2111-2094 B.C.E.), claims not to have given over the orphan and the widow to the rich and powerful.¹⁰²

Of biblical texts, Deuteronomy, in particular, is credited with special care for widows and orphans.¹⁰³

One would expect that the study of children in the Bible would provide new insights into views of orphans in Deuteronomy and the Hebrew Bible as a whole, but these studies, when they do mention orphans, rely on the same assumptions that characterize all treatments of orphans in the Bible—that they are vulnerable and in need of protection. The study that places children at the center of the interpretive act claims this interpretive strategy is one of “interruption,” a “stopping and questioning the text—of recognizing that, ethically, something is amiss is what we are being told.”¹⁰⁴ However, this same study associates widows and orphans with mercy and

¹⁰¹ Fensham, “Widow, Orphan, and the Poor,” 129.

¹⁰² Moshe Weinfeld, *Social Justice in Ancient Israel and in the Ancient Near East* (Minneapolis: Fortress, 1995), 49. See also J. N. Postgate, *Early Mesopotamia: Society and Economy at the Dawn of History* (London: Routledge, 1992) and Martha T. Roth, “Hammurabi’s Wronged Man,” *JAOS* 122 (2002): 45. For a discussion about the variances in Urukagina’s name and general translations of his proclamations, see Douglas Frayne, *Presargonic Period* (2700-2350 BC), *RIMP* 1 (Toronto: University of Toronto Press, 2008), 245-246. For this motif in the laws of Hammurabi, see Fensham, “Widow, Orphan, and the Poor,” 130.

¹⁰³ Fensham, “Widow, Orphan, and Poor,” 135.

¹⁰⁴ Danna Nolan Fewell, *The Children of Israel*, 33. Even so, Fewell does not question the traditional interpretation of widows and orphans in the Hebrew Bible: “Remember the widow and the orphan,” is the litany of the law, the prophets and the psalms. Then there is always the plethora of stories where the promise of God and the redemption of the people are borne by the bodies of long-awaited infants. And all of that is in addition to the Bible’s

justice and affirms that the biblical text provides “behaviors and attitudes toward children to emulate.”¹⁰⁵ The study that recognizes the importance of instruction in Deuteronomy argues that all of this instruction occurs in the household. If this is true, then Deuteronomy has built the marginalization of orphans into its very structure. Orphans remain excluded from this instruction and inclusion in the national narrative.¹⁰⁶ Orphans are not included in key cultic learning opportunities in Deuteronomy, such as Passover, the feast of unleavened bread, and the recitation of the law before all of the people.¹⁰⁷ Orphans serve as the means by which Israelite children, the “presenters of the tithe,” to secure a “good and abundant life.”¹⁰⁸ The study that questions YHWH’s benevolence toward all children points out that while Yahweh promises justice and abundance to Israelite children in Deuteronomy, for non-Israelite children, this same God “seems unjust, bringing terror and death to their lives.”¹⁰⁹ This study argues that even Israelite children enjoy few legal protections and play a passive role in the in their relationship to their parents and YHWH.¹¹⁰ Non-Israelite children in Deuteronomy are plunder (Deut 20:14) and even consigned to death (Deut 20:16-17).¹¹¹ Yet, even this study uses orphans as a foil by contrasting children with fathers to “vulnerable or oppressed members of society, such as the widow, orphan, and foreigner, ” who require the protection of Yahweh.¹¹² Studies of children in the Bible and studies about the orphan often do not intersect, or, if they do, orphans are subject to the same assumptions about widows, orphans, aliens, and Levites found in the rest of the literature. If

general calls to mercy and compassion and thee doing of justice. One can certainly find a number of biblical behaviors and attitudes toward children to emulate.” Fewell, *The Children of Israel*, 25.

¹⁰⁵ Fewell, *The Children of Israel*, 25.

¹⁰⁶ Miller, “That the Children May Know,” 50-56.

¹⁰⁷ Lebendiger, “The Minor in Jewish Law,” 461. Miller, “That the Children May Know,” 56.

¹⁰⁸ Patrick D. Miller, “That the Children May Know,” 53,

¹⁰⁹ Murphy, 2-3.

¹¹⁰ Murphy 8-9.

¹¹¹ Murphy, 13-14.

¹¹² Murphy, “Children in Deuteronomy,” 7-8.

children labored within the household, one would think that all children would be valued in the household, but orphans, like widows are considered unmoored from the Israelite household. The child of the deceased husband is discarded along with his widowed wife.

2.3.3 Aliens

The literature shows a large amount of concern with correctly defining the “alien,” גֵּר. Many define the alien as landless and thus, dependent, vulnerable, and poor.¹¹³ Others define the alien as an immigrant, day laborer, or debt slave residing in a “creditor’s village” and thus, included in feast celebrations.¹¹⁴ At this point, agreement about the alien ends. While there is recognition that the alien is included in the covenant with Israelites, some argue that the alien does not enjoy any advantages, remains a lesser member of the covenant, and will never become fully Israelite.¹¹⁵ Two pieces of evidence suggest that aliens were not full members of Israelite society: that they were not bound to Israelite dietary restrictions and their exclusion from the list of participants in Passover (Deut 16).¹¹⁶ Others argue that the ultimate goal for aliens in Israelite society is full integration.¹¹⁷ While still others argue that aliens chose to remain outside of

¹¹³ Ranier Albertz, “From Aliens to Proselytes: Non-Priestly and Priestly Legislation Concerning Strangers,” in *The Foreigner and the Law: Perspectives from the Hebrew Bible and the Ancient Near East*, ed. Reinhard Achenbach, Rainer Albertz, and Jakob Wöhrle, BZAR 16 (Wiesbaden: Harrassowitz Verlag, 2011), 54-55. Galil, “The Hebrew Inscription from Khirbet Qeiyafa/ Neta'im,” 212. Saul M. Olyan, *Rites and Rank: Hierarchy in Biblical Representations of Cult* (Princeton, N.J.: Princeton University Press, 2000), 69, 75. Christiana Van Houten, *The Alien in Israelite Law*. JSOTSup 107 (Sheffield: JSOT Press, 1991), 94.

¹¹⁴ M. Daniel Carroll R., “Welcoming the Stranger: Toward a Theology of Immigration in Deuteronomy” in *For Our Good Always: Studies on the Message and Influence of Deuteronomy in Honor of Daniel I. Block*, ed. Jason Shane DeRouchie (Winona Lake, IN: Eisenbrauns, 2013), 449. Victor H. Matthews, “The Anthropology of Slavery in the Covenant Code,” in *Theory and Method in Biblical and Cuneiform Law: Revision, Interpolation, and Development*, ed. Bernard M. Levinson, JSOTSup 181 (Sheffield: Sheffield Academic Press, 1994), 124-125. Van Houten, *The Alien in Israelite Law*, 19.

¹¹⁵ Saul M. Olyan argues that membership in the covenant relationship does not afford aliens any advantages within Israelite society. See Olyan, 64, 78-79. Van Houten, *The Alien in Israelite Law*, 107-108.

¹¹⁶ Albertz, “From Aliens to Proselytes,” 55. Van Houten, *The Alien in Israelite Law*, 90.

¹¹⁷ Reinhard Achenbach, “gêr — nâkhrî — tôshav — zâr : Legal and Sacral Distinctions Regarding Foreigners in the Pentateuch,” in *The Foreigner and the Law: Perspective from the Hebrew Bible and the Ancient Near East*, ed. Reinhard Achenbach, Rainer Albertz, and Jakob Wöhrle, BZAR 16 (Wiesbaden: Harrassowitz

Israelite society.¹¹⁸ Some argue that aliens enjoyed legal protections while others maintain that aliens did not have full legal rights.¹¹⁹

Another area of study is how the alien came to live in Israelite society. One theory is that aliens were originally Canaanites who had a precarious position in Israelite society often resulting in impoverishment.¹²⁰ Another theory posits an influx of aliens into the southern kingdom after the destruction of the northern kingdom while others locate aliens in both the northern and southern kingdoms prior to the Babylonian exile.¹²¹ The reasons for alien status also vary. Some argue that the alien voluntarily lived in Israelite society.¹²² Others argue that the alien immigrated into Israel due to social, political, economic, or legal conflict or to escape war or famine.¹²³ What is clear is that very little agreement exists as to the origin and status of aliens in Israelite society.

2.3.4 Levites

The same assumptions about widows, orphans, and aliens are present in regard to Levites, especially Levites in Deuteronomy. At the same time, when sources treat Levites separately, the discussion opens a much larger space for considerations of rhetoric, ideology, and narrative features of the biblical text. Levites as second-tier priests is an idea that has little changed since Wellhausen's construction of Levites in contradistinction to priests.¹²⁴ In Deuteronomy,

Verlag, 2011), 36. Albertz, "From Aliens to Proselytes," 56. Albertz argues that with each successive law collection the alien became more fully integrated into Israelite society. Albertz, 53.

¹¹⁸ Bennett, *Injustice Made Legal*, 45.

¹¹⁹ M. Weber, *Ancient Judaism* (Glencoe, IL: Free Press, 1952), 32. Thomas M. Horner, "Changing Concepts of the 'Stranger' in the Old Testament," *ATHR* 42 (1960): 49.

¹²⁰ Malchow, *Social Justice*, 301.

¹²¹ Lohfink, "Poverty in the Laws of the Ancient Near East and of the Bible," *TS* 52 (1991): 41. Bennett, *Injustice Made Legal*, 46.

¹²² Gowan, "Wealth and Poverty," 343. Spina, "Israelites as *gērîm*," 324-325.

¹²³ Achenbach, "gêr — nâkhrîi — tôshav — zâr," 29-30. Spina, 324-25.

¹²⁴ J. G. McConville, *Law and Theology in Deuteronomy*, JSOTSup 33 (Sheffield: JSOT Press, 1984), 124-25.

Wellhausen describes Levites as “a race which had not received any land of its own indeed, but in compensation had obtained the priesthood for its heritage.”¹²⁵ W. M. L. de Wette in 1805 hypothesized that the book found in the wall of the temple that prompted Josiah’s reforms (2 Kings 22:3-23:25) was an early copy of Deuteronomy. De Wette’s theory gave biblical scholarship a key date, 621 B.C.E., by which to date other books in the HB canon. Although the circular nature of this line of reasoning is now well recognized, the idea of Levitical disenfranchisement as a result of cult centralization persists.¹²⁶ Levites are still considered a subordinate order of priests based upon distinction in terms between “priest” and “Levite.”¹²⁷

The association of Levites with widows, orphans, and aliens is typically given as the primary evidence that Levites were poor.¹²⁸ They are grouped with widows, orphans, and aliens as *personae miserae*.¹²⁹ In this same line of thought, some argue that at the time of Deuteronomy’s composition, Levites had become “especially impoverished.”¹³⁰ Levitical impoverishment rests upon the historical reconstruction of Israelite society.¹³¹ Some explicitly tie

¹²⁵ Julius Wellhausen, *Prolegomena to the History of Ancient Israel* (New York: Meridian Books, 1957) 143.

¹²⁶ Dale Patrick, *Old Testament Law* (Atlanta: John Knox, 1995): 16. McConville, *Law and Theology*, 132.

¹²⁷ Raymond Abba, “Priests and Levites in Deuteronomy,” *VT* 27 (1977): 266. Rodney K. Duke, “The Portion of the Levite: Another Reading of Deuteronomy 18:6-8” *JBL* 106 (1987): 199-200. Although Duke argues against the idea that all Levites were priests, he does recognize that Deuteronomy refers to Levites as cult functionaries.

¹²⁸ Carroll, 448. Duke, “Portion of the Levite,” 201. Houston, *Contending for Justice*, 179. Lebendiger, “Minor in Jewish Law,” 462.

¹²⁹ Achenbach, 32. Altmann points out that Achenbach discounts Deuteronomy 33 in his assumption that all Levites were poor; see Peter Altmann, “What Do the ‘Levites in Your Gates’ Have to Do with the ‘Levitical Priests’? An Attempt at European—North American Dialogue on the Levites in the Deuteronomic Law Corpus.” In *Levites and Priests in Biblical History and Tradition*. Edited by Mark A. Leuchter and Jeremy M. Hutton. SBL Ancient Israel and Its Literature 9. Atlanta: Society of Biblical Literature, 2011: 135-153 Albertz, 54-56. Rook, “Making Widows,” 10.

¹³⁰ Risto Nurmela, *The Levites: Their Emergence as a Second-Class Priesthood*, SFSHJ 193 (Atlanta: Scholars, 1998), 151.

¹³¹ Mark Leuchter points out that this kind of historical reconstruction “leaves out of consideration additional factors such as sociopolitical effects of later processes upon the formation of narratives regarding the past, the ritual function of textual compositions, or the rhetorical role of narratives as a vehicle for social identity formation.” See Mark Leuchter, *The Levites and the Boundaries of Israelite Identity* (New York: Oxford University Press, 2017), 14-15.

Levitical impoverishment to the idea that the Levites have no land.¹³² Even those who recognize Levites' priestly status in Deuteronomy still argue for their poverty based upon a lack of land ownership:

It is significant that Levites have not been included in the list of those who have the right to glean...their exclusion here helps us to delineate their status over against the alien, widow, fatherless. That they are included in only the cultic affairs indicates that they are paid cultic personnel. I agree with McConville that the tithes and first fruits are the dues owed to the Levite. They need these dues because they are landless and cannot produce their own harvest.¹³³

Levitical disenfranchisement rests upon the reconstruction of two historical events, the fall of the northern kingdom¹³⁴ and Josiah's centralization of worship.¹³⁵ There is a tendency as a result of these two historical events to separate Levites into two groups: those acting as priests in the capital and provincial or country Levites whose livelihood had disappeared. This separation results in the distinction between poor Levites and Levites who served as priests.¹³⁶ Of those Levites thought to be disenfranchised through cult centralization, there is a tendency in the literature to hypothesize what role they performed in Israelite society now that the local altars where they served no longer exist. Some postulate that Levites were clients like aliens.¹³⁷ Others argue that Levites functioned as teachers.¹³⁸ And still others argue that Levites served primarily as scribes.¹³⁹

¹³² Nurmela, *Levites*, 150-51. Van Houten, *Alien in Israelite Law*, 95-96, 98. G. Ernest Wright, "The Levites in Deuteronomy," *VT* 45 (1954): 328.

¹³³ Van Houten, *The Alien in Israelite Law*, 98.

¹³⁴ Leuchter, *Levites*, 158. Leuchter also recognizes that other factors may have led to the stylized references to the Levite in Deuteronomy. Nurmela, *Levites*, 152-53.

¹³⁵ J. A. Emerton, "Priests and Levites in Deuteronomy," *VT* 12 (1962): 138. Ernest G. Wright, "Levites," 328-29.

¹³⁶ Abba, "Priests and Levites," 259, 266. Altmann, "Levites in Your Gates," 144. Nurmela, *Levites*, 142.

¹³⁷ Emerton, "Priests and Levites," 138. Wright, "Levites," 328-29. Leuchter quoting Gunneweg in Leuchter, *Levites*, 5.

¹³⁸ Wright, "Levites," 329. Wright argues that the tribe was too large for all Levites to serve as priests; therefore, some served as teachers and, thus, became clients—an insecure position in Israelite society.

¹³⁹ Nurmela, *Levites*, 161. Leuchter, *Levites*, 142.

Much of the discussion about the status of Levites in Deuteronomy hinges upon the description of Levites in Deuteronomy 18:1-6. At one point in the history of the discussion, the idea that no distinction existed between priests and Levites prevailed; Levites were simply acting priests in Deuteronomy.¹⁴⁰ Challenges to this view argue that this text in Deuteronomy is the exception to the rule that Levites were not cult functionaries.¹⁴¹ This discussion focuses upon the work of the Levites other than priestly duties. Divorced from priestly duties, Levites' economic stability comes into question. Their role in Israelite society becomes less stable and they are on par with aliens who are clients in Israelite society.

Deuteronomy 18:1-8 begins with an emphatic categorization of priests in the text: “the priests, the Levites, the entire tribe of Levi,” לְכֹהֲנִים הַלְוִיִּם כָּל־שֹׁבֵט לְוִי. All priests in Deuteronomy 18 are Levitical priests.¹⁴² The designation, “the Levites, the entire tribe of Levi” stands in apposition to “the priests” and governs this text pertaining to priestly dues. Wellhausen thought that the Levitical priest in 18:6 was the disenfranchised provincial priest; however, Deuteronomy 18:6-8 encompasses the breadth of the Levitical priesthood.¹⁴³

And when the Levite comes from one of your gates in *all* Israel, and when he enters in all the craving of his *nepeš*, to the place which the LORD will choose, then he will minister in the name of the LORD his god—just as his brothers, the Levites, the ones standing there before the LORD—they shall eat the same portions apart from their sale of the patrimony.

¹⁴⁰ This is an assumption that Wright argues against. See Wright, “Levites,” 325-330. In his response to Wright, Emerton argues that Levites had priestly status until cult centralization where they became clients. It is not clear, however, that Emerton equates Levites' client status with poverty. See, Emerton, “Priests and Levites,” 138.

¹⁴¹ Duke, “Portion of the Levite,” 200-201. Duke builds his argument upon texts other than Deuteronomy 18: 1-8, such as the Priestly source, Jeremiah, and Chronicles. Nurmela also recognizes that Deuteronomy's portrayal of Levites is unlike other biblical texts. Nurmela, *Levites*, 161.

¹⁴² McConville, *Law and Theology*, 133. Nurmela, *Levites*, 10. Nurmela goes on, however, to state that they had no cultic duties.

¹⁴³ McConville, *Law and Theology*, 126. McConville points out that Wellhausen thought as a result of Josiah's centralization of worship, the Zadokite priests were now in control of the sanctuary and that Deuteronomy sought to retain the authority of the Levitical priesthood; however, McConville disagrees with Wellhausen's historical reconstruction citing “little evidence for non-Levitical priestly families.” See McConville, *Law and Theology*, 131.

Rather than placing limitations upon the priestly dues in verses 3-4, verses 6-8 secure equal treatment of every Levite ministering in the name of YHWH. These verses legislate that any Levite can minister at the temple and receive the same portion as a local Levitical priest, even though the visiting Levite has wealth from the sale of his ancestral lands.

Literature that treats the Levite alone begins to recognize the rhetorical and ideological features of Deuteronomy in regard to Levites. For example, one study while recognizing that the fall of the northern kingdom may have placed some Levites in a precarious social position, nonetheless points out that “other factors may have led to this deuteronomic trope” and that “in the narrative world of Deuteronomy, Israel becomes Israel irrespective of land or geographic space.”¹⁴⁴ References to Levites are always in the singular.¹⁴⁵ Legislation in Deuteronomy, especially in regard to the tithes, has a “persuasive tendency.”¹⁴⁶ The phrase “the alien, the orphan, the widow, and the Levite” is part of a larger deuteronomic ideology where helping “this category of vulnerable persons positions one to be free from circumstances that might undermine the quality of existence.”¹⁴⁷ Levites are *supposed* to eat tithed foods and that eating in Deuteronomy is a motif.¹⁴⁸ The Levite is, in fact, “a full member of the people” who also has the right “to share in the inheritance,” as such the Levite in Deuteronomy functions as “the ideal representation of “how the whole people should stand both to Yahweh and the land.”¹⁴⁹ In the literature, one begins to see notions that Levites are set apart in the text as “a group distinguished

¹⁴⁴ Leuchter, *Levites*, 158, 162.

¹⁴⁵ Nurmela, *Levites*, 150.

¹⁴⁶ McConville, *Law and Theology*, 77.

¹⁴⁷ Bennett, *Injustice Made Legal*, 88.

¹⁴⁸ Emerton 134. McConville, *Law and Theology*, 79-80.

¹⁴⁹ McConville, *Law and Theology*, 150. McConville states the Levite is, in fact, *not* poor but “has the right to be rich” and that through his obedience “typifies all of Israel.” McConville, 152.

from ordinary Israelites” and that this portrayal of the Levites differs from all other biblical texts.¹⁵⁰

There is recognition in the literature that the Levite was not necessarily poor—something not found in the literature about widows, orphans, and aliens. There is no recognition that the alien could be more than a day laborer earning subsistence wages, and wealthy widows are discounted as not real widows; however, Levites, when taken on their own apart from the “alien, orphan, widow” triad, have the potential to be something other than impoverished, or impoverished Levites are the exception, not the rule. That Levites in Deuteronomy 8 had something they could sell shows that they were not necessarily devoid of land and wealth.¹⁵¹ Additionally, Levitical cities may have provided pastureland to graze herds and flocks.¹⁵² The deuteronomic admonition to remember the Levite places the Levite in an entirely different position in Israelite society. In Deuteronomy, Levites are cult functionaries and Israelites are warned not to forget the Levite—and thus YHWH—in order to continue enjoying the benefits of the land.¹⁵³ Rather than reading the Levites as poor since they are associated with widows, orphans, and aliens, the association may have a different common characteristic than impoverishment. If the association were to be read in the opposite direction: widows, orphans, and aliens are associated with cult functionaries, Levites. If Levites served as cult functionaries at the temple as Deuteronomy supposes, then they may have owned livestock and commodities purchased by Israelites who traveled to the temple to celebrate agricultural festivals.¹⁵⁴

One of the most compelling pieces of evidence for Levitical enfranchisement is the idea

¹⁵⁰ Nurmela, *Levites*, 151.

¹⁵¹ McConville, *Law and Theology*, 73.

¹⁵² *Ibid.*, 134.

¹⁵³ *Ibid.*, 150, 152.

¹⁵⁴ Bennett, *Injustice Made Legal*, 86-87.

that Levites either wrote Deuteronomy or that their scribal activity greatly influenced the development and promulgation of the Deuteronomistic worldview.¹⁵⁵ Levites over several centuries may have profoundly influenced the formation of Israelite identity with a decidedly Levitical influence:

In the traditions emanating from Levite groups, it is they who define the boundaries of Israel's self-understanding (ideologically, politically, culturally, and even geographically) throughout the course of its history. To gauge who and what "Israel" is depends on how one regards the role of Levites in relation to Israelite society.¹⁵⁶

Levites hold an exalted place in the text of Deuteronomy.

Levites in Deuteronomy do not appear to be poor or disenfranchised. Moses, the narrator of Deuteronomy and leader of the Israelite people, is, himself, a Levite, the child of a Levite mother and father (Exod. 2:1 and 6:19-20). In Deuteronomy, apart from the formulaic texts in which Levites appear, Levites are set apart for sacral duty (10:8-9), make difficult legal decisions (17:8-10), witness the writing of the law for the king (17:18), minister at the sanctuary (18:1-8), speak with one voice with Moses (27:9-10), address the entire Israelite nation (27:11-26), read the law to the whole assembly every seven years (31:9-13), write down and guard the law (31:24-29), assemble the elders before Moses (31:28), and receive an unequivocally positive blessing near the end of the book (33:8-11).¹⁵⁷ On the other hand, Deuteronomy makes little mention of the Aaronide priesthood. Aaron, himself, is mentioned only three times: the infamous golden calf incident (9:20), his death (10:6), and Moses' imminent death where he will be, like Aaron, "gathered to his people" (32:50). Aaron appears in Deuteronomy only in the context of

¹⁵⁵ Hoppe traces the first suggestion that Levites wrote Deuteronomy to W. W. F. Baudissin in his 1889 publication, *Geschichte des alttestamentlichen Priestertums* but argues against his notion: Hoppe 32-33. See, Hoppe, 27. Nurmela, *Levites*, 160.

¹⁵⁶ Leuchter, *Levites*, 25.

¹⁵⁷ For the Levites' role as judicial administrators and the power this role entails, see: Mark Leuchter, "The Levite in Your Gates': The Deuteronomic Redefinition of Levitical Authority," *JBL* 126 (3), 2007: 417-436.

his guilt or his death. Deuteronomy's interchangeable use of "priest" and "Levite" (Deut 18:1-8) hints at an uncertainty regarding religious and political leadership in the societal structure envisioned by Deuteronomy. Levites hold religious and political positions, serving God and mediating between Moses and his appointed judges and elders.¹⁵⁸ Rather than associate Levites with widows, orphans, and aliens as "the poor," in Deuteronomy's sacred world, widows, orphans, and aliens join Levites as cultic functionaries. This association hinges upon important, intra-Deuteronomic themes, "remembering" and "forgetting," tied to "eating and being full," that transform what, where, and when this group eats into religious ritual.

2.4 Disability Theory and Widows, Orphans, Aliens, and Levites

Essays and articles that together treat widows, orphans, aliens, and Levites in ancient Israel assume their poverty based upon two factors: their exclusion from—or marginal relationship to—Israelite society and the subsequent law provisions thought to provide for their economic support.¹⁵⁹ Scholarship describes Israelite social structure as a kinship-based, hierarchical arrangement that extends from the largest group to the smallest: the tribe, the clan or family, and the household or the *bēt ʿaḇ*. The nexus of day to day life, the *bēt ʿaḇ* is considered the most important social structure concerning the rights and the place of individuals within Israelite society. Since widows, orphans, and aliens presumably lack an Israelite male as the head

¹⁵⁸ For the positive depiction of the Levites in Deuteronomy, see Joel S. Baden "The Violent Origins of the Levites: Text and Tradition," in *Levites and Priests in Biblical History and Tradition*, Society of Biblical Literature: Ancient Israel and Its Literature, 9 (Leiden: Brill, 2012), 105-107.

¹⁵⁹ Bennet, *Injustice Made Legal*. Fensham, "Widow, Orphan, and the Poor." Thomas Krapf, "Traditions-Geschichtliches." Donald E. Gowan, "Wealth and Poverty." Norbert Lohfink stands as the one exception; instead of attributing the assumed poverty of widows, orphans, and aliens to their exclusion from Israelite society thought to be evidenced in the law provisions, he attributes their poverty to a lack of land ownership. However, this too may be construed a result of marginality within the Israelite social structure, since land ownership is considered integral to that system. Lohfink "Poverty," 34-50. Mark Sneed, "Israelite Concern." Harold V. Bennett, *Injustice Made Legal*.

of the household, they are cast as weak and vulnerable, evidenced by the protections within biblical legal materials. Although Israelite society was patrilocal, widowed women and their children are thought to have been sent back to their families of origin or set adrift without a relationship to any male family member. Resident aliens, who do not fit within the hierarchical and patrilineal conceptions of Israelite society, are drawn as dependent wage earners living as quasi-members within Israelite households. The result is a complex narrative that acknowledges exceptions and ambiguities but overall counts widows, orphans, and aliens among the poor and powerless within Israelite society.

This section will analyze the literature that together addresses widows, orphans, and aliens and their relationship to the *bēt ʿab* that presumably defines their marginal status, as well as interrogate the discourse that represents these three groups of people in exclusively impoverished terms. This literature illustrates the basis of their assumed exclusion from the kinship structure and how the rhetoric about this triad operates implicitly—and sometimes explicitly—within a conceptual frame of ability and disability.

2.4.1 A Historical Approach

F. Charles Fensham argues that protection of widows and orphans was routine practice in the ancient Near East evidenced by wisdom and legal material from Mesopotamia, Egypt, Ugarit, and Israel. Fensham primarily bases his argument in Mesopotamian and Israelite legal and wisdom literature, since no Egyptian legal material or Ugaritic legal or wisdom literature exists. (He includes Ugarit based upon the Epic of Aqhat.) According to Fensham, wisdom literature instilled concern for widows, orphans, and the poor as a virtue, and legal materials detailed

punishment for failing to abide by this cultural norm.¹⁶⁰ Fensham asserts that widows, orphans, and the poor had no legal rights and, therefore, required protection. He concludes that wisdom and legal materials characterize protection of widows and orphans as the will of particular gods—or God in Israel’s case—the quality of a good king, and a common practice throughout the ancient Near East.

Fensham is one of the few scholars to argue that widows had family ties, based upon the biblical characters Ruth, who became part of her husband’s family after his death, and Tamar, whom Judah ordered to return to her father’s house. Fensham concludes that widows and orphans are not, in fact, defined by a lack of family ties which leads him to qualify his idea about culturally normative behavior to include not only poor widows and orphans but those temporarily without legal protection.¹⁶¹ Although Fensham does not refer to aliens within the title of his study, he includes them among his third category, the poor, when he deals with biblical legal materials.¹⁶² Fensham credits Deuteronomy with a special interest in widows and orphans but finds the inclusion of the alien an unremarkable addition to the group. He views Deut. 10:18 as the foundation for all of the other laws in Deuteronomy that refer to widows, orphans, and aliens: Yahweh protects and effects justice for this group and enjoins the Israelite community to do the same. According to Fensham, all of the special provisions in Deuteronomy for widows, orphans, and the poor follow this mandate in Deut. 10:18: they are allowed to eat tithed foods, participate in festivals, and glean newly harvested land.¹⁶³ He ascribes to Deuteronomy a particularly balanced view of justice that protects but does not favor the poor.¹⁶⁴

¹⁶⁰ Fensham, “Widow, Orphan, and the Poor,” 176-177.

¹⁶¹ *Ibid.*, 186.

¹⁶² *Ibid.*, 135.

¹⁶³ *Ibid.*

¹⁶⁴ *Ibid.*, 184.

At the end of his article, Fensham describes ancient Israelite religion as the “high ethical religion of Yahweh...later inherited by Christians and Muslims.”¹⁶⁵ This legislation in Deuteronomy, for Fensham, forms the basis of an ethical system propagated by Judaism, Christianity, and Islam.

Fensham works from a strictly historical-critical stance commensurate with the time and context in which he lived and worked. Within his treatment of Mesopotamian law, key texts for Fensham’s argument occur within the prologue or epilogue portions of *Ur-Nammu* and the *Laws of Hammurabi* (*LH*), sections with their own ideological goals and intentions. The laws, *LH* 170-176, that Fensham cites as a practical example of protection for widows, adjudicate the rights of multiple, child-bearing women of differing status within a single household upon the death of the husband. These laws address a much more complex situation than mere protection of widows. Fensham is correct when he connects protection of the widow and orphan to the reputation of a good king; however, characterizing all widows and orphans as vulnerable, poor, and in need of protection accepts and replicates the ideology of these Mesopotamian texts. Fensham uses “the weak” and “the poor” interchangeably with widows, orphans, and aliens. Thus, Fensham’s qualification that widows and orphans may have needed only temporary legal protection is confused by the conflation of these categories.

More alarming is Fensham’s ubiquitous use of the language of weakness without explanation or clarification. What is it about being a widow or an orphan that makes that a person weak? Is it that person’s “weak” status in society or does Fensham mean physical weakness? Just as Fensham conflates aliens with “the poor,” so does he identify widows, orphans, and the poor, i.e. aliens, with weak, as opposed to strong, members of Israelite society. This language of weakness hints at a conceptual frame of ability.

¹⁶⁵ Ibid., 139.

The term “disabled” appears one time in Fensham’s article within his discussion of *The Instructions of Amenemope* where he explains, “A maxim declares that the oppressed must not be robbed and that no harshness may be inflicted on the disabled;” he continues in the next paragraph, “We have ample evidence that kings and rulers were encouraged to protect the weak.”¹⁶⁶ Fensham presents the terms “poor” and “disabled” interchangeably, drawing a direct connection between disability and weakness.

2.4.2 Narrative Approaches: Gowan and Lohfink

In “Wealth and Poverty in the Old Testament: The Case of the Widow, the Orphan, and the Sojourner,” Donald E. Gowan takes a narrative-ethical approach in that he attempts to read with biblical texts and regards biblical legal material as an “appeal to the conscience” of every Israelite to work for equal rights and provide and maintain justice. He tries to answer the question “Why should I?” characterizes the motives for caring for widows, orphans, and aliens as an empathic response (“Try to put yourself in their place”) and, like most who write about them about, casts his treatment in moral terms. Gowan explains the marginal status of widows, orphans, and aliens within Israelite society in this way:

Widow and orphan were dependent on the good will of others because of the social structure (male-dominated), age, and physical strength. Immigrants were also dependent on good will because they had no natural ties to the social structure and may also have been obviously different because of customs and accent.¹⁶⁷

¹⁶⁶ Ibid., 133. Here Fensham cites Budge’s 1924 translation and Wilson’s translation in *ANET*. Budge translates this term as “destitute,” whereas Wilson translates it as “disabled.” See E. A. W. Budge *The Teaching of Amen-Em-Apt, Son of Kanekht* (London: Martin Hopkinson and Co., 1924), 145 and John A. Wilson “The Instruction of Amen-Em-Opet” in *Ancient Near Eastern Texts Relating to the Old Testament*, 2nd ed., ed. James B. Pritchard, (Princeton: Princeton University Press, 1955), 422.

¹⁶⁷ Gowan, “Wealth and Poverty,” 344.

Gowan frames his discussion in terms of ability. He construes the marginalization of widows and orphans thus, “In a society which depended so heavily on human muscle power for subsistence, a family without one adult male, composed of a widow and her children, would find it difficult to survive.”¹⁶⁸ This same argument does not hold, however, for the alien. He describes sojourners as “members of a family headed by an able-bodied, adult male.”¹⁶⁹ Although Gowan acknowledges that widows, orphans, and aliens were not always poor, he characterizes those who were poor as the poorest of the poor, weak, of “precarious social status,” and not able to maintain their resources and rights—all of which contributed to what he identifies as their primary difficulty: powerlessness.

Gowan characterizes the gleaning laws (Deut 24:19-21) and the third-year tithe provisions (Deut 14:28-29; 26:12-15) in Deuteronomy as institutionalized charity, but he finds that the laws about festivals (Deut 16:9-12, 13-15) serve a very different purpose: that of equality.¹⁷⁰ Nonetheless, he recognizes that the gleaning and tithe laws were apodictic, and, thus, unenforceable; however, since the festivals of Weeks and Booths list widows, orphans, and aliens among the participants, Gowan asserts that Deuteronomy required an expansion of the family at those times during the agricultural year. Of these three groups of law provisions, Gowan concludes that they could not have “produced a welfare system which provided for all the needs of the poor.”¹⁷¹ Gowan concludes that “what the Old Testament says about wealth and poverty cannot be taken as prescriptive for any modern society;” however, he affirms the

¹⁶⁸ Ibid., 343.

¹⁶⁹ Ibid.

¹⁷⁰ Ibid., 346.

¹⁷¹ Ibid.

“enduring value for descriptive purposes” of references to widows, orphans, and aliens as “the classic examples of the powerless.”¹⁷²

Gowan infuses his article with language and assumptions about ability and normalcy, as well as assumptions about the place in and relationship of people with disabilities to society at large.¹⁷³ Gowan presumes an ideology of ability when he attributes the powerlessness of widows and orphans to a “lack of muscle power,” an argument undergirded by the assumption that all adult males, Israelite or alien, were able-bodied. He assumes hard work as the mode of existence for all people in antiquity, a type of work that presupposes a particular age, gender, and body type, and implies that anyone who did not fit this cultural norm became impoverished and powerless. He blurs the boundaries between antiquity and the modern charity movement. Gowan equates a lack of physical strength with marginal social status and carries this assumption into his modern-day parallels.

Although Gowan recognizes that most Israelites were poor and living at subsistence levels, he asserts, “Hard work, however, is a matter of choice,” a value he attributes to wisdom literature.¹⁷⁴ More significant, however, with regard to widows and orphans, Gowan equates a lack of physical strength with marginal social status.¹⁷⁵ Gowan categorizes and abstracts widows, orphans, and aliens when he discusses three kinds of distress they represent: widows’ involuntary change of fortune, orphans’ helplessness “due to their physical condition,” and immigrants’ “being different from the rest.”¹⁷⁶ He continues

¹⁷² Ibid., 353.

¹⁷³ I would like to qualify the following critique of Gowan’s article by recognizing that he was writing near the beginning of the formation of Disability Studies as an academic field.

¹⁷⁴ Gowan, “Wealth and Poverty, 348.

¹⁷⁵ Since Gowan assumes that aliens were male or part of a family headed by an able-bodied male, he describes their powerlessness in ethnic and racial terms: their foreign origin, different customs and accents, and “a voluntary choice to live as they did.” Ibid., 343-344.

¹⁷⁶ Ibid., 344.

Looking at these groups in this way may help us appreciate their plight more fully in that we can identify parallels in our own culture (e.g. the change of fortune from a prestigious job to unemployment, or the inability to help oneself because of mental disability rather than physical immaturity).¹⁷⁷

Here, Gowan overtly draws a connection between the texts in Deuteronomy and people with disabilities, specifically intellectual disabilities, today. He even describes widows, orphans and aliens as “people with special needs.”¹⁷⁸ Gowan’s discourse about widows, orphans, and aliens literally operates within the cultural frame of ability where he aligns the larger (and majority) Israelite population with the able-bodied in Israelite society and relegates widows, orphans, and aliens to the margins.

Norbert Lohfink is one of the few scholars who does not explicitly attribute the poverty of widows, orphans, and aliens to their exclusion from the kinship network. Although, he believes they are poor, he identifies a lack of land ownership as their common feature, a trait shared with Levites and slaves.¹⁷⁹ In order to fully understand Lohfink’s perception of this triad and their depiction in Deuteronomic Law, it is necessary to begin with Lohfink’s understanding of the Covenant Code (Exod. 20:22-23:33). According to Lohfink, although Mesopotamian law shows concern for the poor in the prologue and epilogue portions of its law collections, law provisions addressing justice for the poor are absent. Lohfink points out that the Covenant Code, on the other hand, includes provisions for the poor surrounded by a Pentateuchal narrative that functions as the prologue and epilogue, situating these provisions within Israel’s story of the Exodus. For Lohfink, law provisions that assume poverty pose a problem for a Pentateuchal narrative that envisions a world with no poor. In regard to the Covenant Code, Lohfink asserts that laws about the alien (Exod. 22:20-23:9 and 23:10-12) frame laws about the poor, as well as

¹⁷⁷ Ibid.

¹⁷⁸ Ibid., 351.

¹⁷⁹ Lohfink, “Poverty,” 44.

law provisions that pertain to widows and orphans (Exod. 22:22 and 23:11). Lohfink here finds the origin of a formulaic designation for the poor in the Hebrew Bible.¹⁸⁰ Further Lohfink asserts that the idea of “the poor” becomes a theme in the very structures of the CC.

For Lohfink, Deuteronomy “changes the semantic field of poverty” by dividing terms for the poor into two groups: people designated by words translated as “poor,” *ebyon* and *ani*, and a second group, “the alien, the orphan, and the widow.” Lohfink finds contextual differences in the laws pertaining to each group. Laws that concern the poor, *ebyon* or *ani*, appear in a context of recurring poverty due to debt, and laws that name widows, orphans, and aliens provide for economic needs and ensure participation in Israel’s festivals along with slaves and Levites. The inclusion of slaves and Levites, whom Lohfink does not consider poor, leads him to conclude that Deuteronomy seeks “not to add new groups to the poor but to change the structures of society so as to provide support for those groups which, for very different reasons, are not in a position to live off their own land.”¹⁸¹ Lohfink also sees a system in Deuteronomic Law that extends from Deut. 5:14 to 26:12, a system that ensures economic support and full participation in Israelite society for those without land.¹⁸² He continues, “[I]t is possible, according to Deuteronomy, to create a world in which one can be a stranger, an orphan, or a widow without being poor.”¹⁸³ Unlike Mesopotamian law, Deuteronomic law could have made the Pentateuchal vision of society a reality but remained unrealized, Lohfink surmises, due to a lack of support by the Israelite people.¹⁸⁴

¹⁸⁰ Ibid., 40.

¹⁸¹ Ibid., 44.

¹⁸² Ibid.

¹⁸³ Ibid.

¹⁸⁴ Ibid., 46.

Lohfink takes a narrative approach to the laws that name widows, orphans, and aliens and finds a system within the biblical text that emphasizes the theme of the poor (CC) and then envisions full inclusion in society for those who do not possess land (DL). For Lohfink, the association of slaves, widows, orphans, and aliens with the Levite in Deuteronomy elevates them to a place of honor in Israelite society. That slaves had their daily needs provided brings Lohfink to the conclusion that land ownership, not poverty, is the common factor among these groups of people. That widows, orphans, and aliens did not own land is integrally related to the idea that they were marginal or excluded from the kinship structure. Land was held by families, and survival in premonarchical Israel depended upon land ownership held by the smallest unit of the social structure: the *bēt ʿab*. Although Lohfink determines that land ownership is central to the identities of widows, orphans, and aliens, his entire discussion is framed by the assumption of poverty. Lohfink's frame within the Covenant Code requires equating "widows and orphans" in Exod. 22.21 with "the poor" in Exod. 23.11. The terms for widows, orphans, and aliens establish one of two groups of the poor in Deuteronomy, and ultimately, according to Lohfink, Deuteronomy's vision of structural change to eliminate want remained unrealized. While Deuteronomy may envision a future society with no poor, Lohfink's treatment of DL remains firmly rooted in "the semantic field of poverty."

2.4.3 Ideological Approaches: Sneed and Bennett

Mark Sneed argues against what he terms a vestigial approach to the Hebrew Bible which claims that minority and oppressed voices are thought to be encoded or embedded within the biblical text. Sneed contends that references to widows, orphans, and aliens in the Hebrew Bible

served as propaganda to promote the interests of their upper class authors and redactors.¹⁸⁵ He seeks to show that “if a seemingly iron-clad case of altruism in the Hebrew Bible can be shown to serve ideological purposes, then the Hebrew Bible as a whole should be viewed as serving the class interests of its authors” which he, in fact, he concludes at the end of his article.¹⁸⁶

Sneed takes both a diachronic approach, wherein he treats specific texts, and a synchronic approach, where he considers the rhetorical function of texts that name widows, orphans, and aliens. Sneed titles his diachronic treatment “*Personae Miserabiles in Pentateuchal Legislation.*” When Sneed defines the terms “widow,” “orphan,” and “alien,” he identifies their common trait as a “lack of kin network to support them at a specific locale,” and concludes that “these categories represent the worst of the worst, the most wretched poor.”¹⁸⁷ Within his synchronic approach, Sneed explicitly identifies “concern for the poor and marginal” as a “universal value” and claims that there is “no society, past or present, that has not, at least, given lip service to this value.”¹⁸⁸ Sneed defines values as “norms that form part of the *social fabric* of a particular culture [emphasis added].”¹⁸⁹ According to Sneed, concern for widows, orphans, and aliens functioned rhetorically as a cultural norm within Israelite society, propagated by legal texts that instilled this value in the wider population, legitimized Yahweh as benevolent ruler, and shamed transgressors.

Diachronically, Sneed surveys Pentateuchal legislation from the Covenant Code to the Holiness Code to show how these texts served upper class interests. First, he points to the apodictic nature of Covenant Code legislation (Exod. 22:20-26) which prescribes no punishment

¹⁸⁵ Sneed, “Israelite Concern,” 499.

¹⁸⁶ Ibid., 500.

¹⁸⁷ Ibid.

¹⁸⁸ Ibid., 501

¹⁸⁹ Ibid.

for transgression. He ascribes the introduction of the alien to widows and orphans as further proof of the legislation's rhetorical use in that upper class Israelites relied upon the "cheap labor" aliens provided.¹⁹⁰ Sneed also points out that legislation protecting the rights of wealthy, landed Israelites precedes laws thought to protect widows, orphans, and aliens: "So while the law prevents the oppressing of the poor, it at the same time establishes the rights of those most capable of oppression."¹⁹¹ In Deuteronomic law, Sneed agrees that the gleaning legislation in Deut. 24:17-21, "at least provides the bare necessities for the marginal" but goes on in the footnote to state that "I maintain that these laws merely perpetuated their poverty as many national welfare systems do today."¹⁹² Sneed also points out what he calls "the new category of marginal here: the Levites" and agrees with the traditional view that Deuteronomic cult centralization disenfranchised and thus impoverished Levitical cultic functionaries.¹⁹³ Sneed explains the change in terminology in corresponding Holiness Code legislation, Lev 19:9, in that, "This is essentially the same as the Deuteronomic code, except the »poor« עני, is used instead of the typical dyad, widow and orphan. Why the Levite is here not included is not apparent, except that obviously this situation was no longer a problem or not yet one."¹⁹⁴ Sneed maintains that, unlike the Book of the Covenant, Deuteronomy provides for the basic necessities of life to those marginalized in Israelite society.

In his treatment of Pentateuchal legislation, Sneed makes two cogent points; he acknowledges that legislation which refers to widows, orphans, and aliens fails to identify punishment for transgression and that rather than preventing poverty these laws could have

¹⁹⁰ Ibid. 504.

¹⁹¹ Ibid., 505.

¹⁹² Ibid., 505-506 and 506, n. 27.

¹⁹³ Ibid., 506.

¹⁹⁴ Ibid. 507.

contributed to further marginalization. Although he identifies Exod. 22: 20-26 as a “triadic formula,” references to widows, orphans and aliens do not become formulaic until deuteronomic legislation. Additionally, Sneed discounts the change in terminology in Levitical legislation, “the poor and the alien” (Lev 19:9) and conflates widows and orphans with the poor.

Sneed stands out as one of the few scholars to consider the ideological function of this formulaic reference in biblical texts. Though he makes use of ideological criticism, Sneed focuses on the interests of upper-class elites rather than questioning the construal of widows, orphans, and aliens in the text. Sneed works from the assumption that the laws in Deuteronomy were operational and indicative of actual practice within Israelite society, rather than couching the same self-interests of elites. Not only does Sneed affirm that yearly and third-year tithe laws provided for basic necessities, he also draws an analogy to modern day welfare systems which is anachronistic at best, since ancient Israelite society is not analogous to a modern capitalist society. Sneed, however, fails to question that the value, “concern for the less fortunate in society,” may itself be ideological and serve upper class interests.

Further, Sneed connects widows, orphans, and aliens to people with disabilities and excludes both groups from the regular kinship structure: “Not only were they poor, but poor without kin to buttress them. As a result, the triadic categories probably had to take their seats among the blind and lame who begged at the city gates.”¹⁹⁵ Again, when he discusses concern for the poor and marginal as a universal cultural value, he uses disability to illustrate his point:

This particular value is usually deeply ingrained in the hearts of most people. From infancy until adulthood, it is continually inculcated and reinforced by most societies. Shame is usually reserved for those who make fun of the handicapped, who taunt the blind, who mock the orphan and the down-and-out. Praise is usually

¹⁹⁵ Ibid., 501.

extended to those who give up their time in soup kitchens or to participate in charities that help the sick and poverty-stricken.¹⁹⁶

Although Sneed recognizes the concern for the widows, orphans, and aliens as a normative, cultural value in the formation of dominant Israelite identity, he does not question their marginalized construction within biblical texts or the scholarship that accepts this construal.

Harold V. Bennett begins from the vantage point that widows, orphans, and aliens were “a category of socially weak, vulnerable human beings in ancient Israel” and that Deuteronomic Law “claim[s] to offer public relief to them.”¹⁹⁷ Bennett identifies their common characteristic as “the absence of an adult male protector” that “guaranteed that they were a category of socially weak, vulnerable individuals in the biblical communities.”¹⁹⁸ Bennett employs critical legal theory to engage in an ideological critique of DL as a method of social control exercised upon categories of non-normative persons in society that reflects some sort of conflict. According to Bennett, legal theory provides

A theoretical framework informed by critical theory about law [that] honors the perspective of a category of vulnerable persons in ancient Israelite society by treating these types of persons as the central subjects in the investigative process. By exploring these texts from a perspective that might be analogous to the perspective of vulnerable underclass persons in societies, scholars permit unheard voices in these codes to speak.¹⁹⁹

He summarizes:

I argue that widows, strangers, and orphans were part of a strategy to regulate the behavior and to shape the ideas of local peasant farmers regarding the distribution of goods in ancient Israel. Specifically this project argues that Deut. 14:22-29; 16:9-12, 13-15; 24:17-18, 19-22; and 26:12-15 exacerbated the plight of widows, strangers, and orphans – a category of socially weak but politically useful persons

¹⁹⁶ Ibid.

¹⁹⁷ Bennett, *Injustice Made Legal*, 1.

¹⁹⁸ Ibid., 55.

¹⁹⁹ Ibid., 20.

in the biblical communities – positioning intellectual elites to stave off potential uprisings by local peasant farmers in the North during the ninth century B.C.E.²⁰⁰

For Bennett, the changes or innovations in Deuteronomic Law reflect the site of conflict: the situation and interests of a subgroup of Yahweh-alone cultic officials in the North during the ninth century B.C.E. For Bennett, the specific changes in these laws from their counterparts in the Book of the Covenant point to the concerns and strategies of cultic officials. He asserts that this group of cultic elites wrote these laws to enact “a public assistance program” and instill values in the population at large, values that protected and furthered their own agenda and lifestyle.²⁰¹

Bennett faults the Omride dynasty for the breakdown of the primary kinship structure in Israel, a decline that worsened the circumstances of widows, orphans, and aliens and led to the composition of laws to establish a public relief system.²⁰² He adheres to the traditional designation of the three major divisions in Israel’s social structure, but differs in that he identifies the *mishpāhāh* or what he calls a “collection of households,” as the most important kinship unit. Bennett agrees that blood relations and marriage determined kinship groups but holds that consanguinity remained the most important factor. Bennett refers to the smallest kinship structure as the “nuclear families” of collections of households, thus equating the *bēt ʾab* with a nuclear family. For Bennett the *mishpāhāh* controlled the socioeconomic resources that provided support to marginal members of society.²⁰³ While widows, orphans, and aliens lacked ties to an Israelite adult male, Bennett assumes that the *mishpāhāh* supported them through a voluntary welfare system. According to Bennett, the collapse of this principal kinship arrangement during the Omride dynasty destroyed any public welfare system that might have been available to

²⁰⁰ Ibid., 11.

²⁰¹ Ibid., 127.

²⁰² Ibid., 143.

²⁰³ Ibid., 148.

widows, orphans, and aliens.²⁰⁴ Although the Omride government brought political stability and increased economic wealth, it also levied a heavy burden on the populace through taxation and the conscription of labor, creating a crisis in the North to which cultic officials responded. This response included alteration of existing law regarding commodities, i.e. the tithes and crops required by the major festivals. Thus, the Yahweh-alone cult created a centralized, yearly system theologically grounded in fear of Yahweh that brought money and food to a single location and placed the burden of caring for widows, orphans, and aliens on the community at large. According to Bennett, this subgroup used “charity toward a category of socially weak, vulnerable persons as a pretext” to maximize their economic gain.²⁰⁵

Bennett blends historical critical methodology with the ideological critique of critical legal theory. Bennett works from the assumption that Deuteronomy presents a picture of historical reality and that DL reflects actual practice in Israelite society. His reconstruction of the social history of Israel and the place of widows, orphans, and aliens within it is integral to the accuracy of his hypothesis. At times in his study, he is on the cusp of recognizing the social construction of marginalized groups. He states that critical legal theory “contends that social features over which people have little control connect these persons and become the criteria for their social grouping” and that “membership in this social category positions people to become the victims of injustice and to experience socioeconomic disadvantage.”²⁰⁶ However, he fails to question the reality of that social construction and the role of the more powerful who construct it according to their own version of what is normative. In fact, Bennett endorses the construction and draws on legal and sociological theory that supports his assumption that widows, orphans,

²⁰⁴ Ibid., 152.

²⁰⁵ Ibid., 171.

²⁰⁶ Ibid., 20.

and aliens were always weak and vulnerable. Bennett adopts the social scientific work of Gottwald and Gerhard Lenski as proof that widows, orphans, and aliens were among the lower socio-economic groups in ancient Israel. Since Gottwald's work does not specifically address widows, orphans, and aliens, Bennett primarily relies on Lenski's work. Lenski characterizes social hierarchy as "inevitable and intentional" and that typical agrarian societies are comprised by a ruler, a governing body, those employed by the governing body, commercial merchants, artisans, priests, peasants (who make up ninety percent of the population), and expendables.²⁰⁷ Within this class of "expendables," Bennett finds support for his hypothesis. Bennett summarizes a portion of Lenski's work thus:

Lenski proposes that a class of expendable persons was a feature of agrarian communities. He implies that individuals for whom other members of society had little or no need, or who were unemployable, constituted this stratum. This social subdivision of nonessential persons included petty criminals, beggars, itinerant workers, individuals with physical and mental handicaps, women with children but who were without husbands, and other individuals that political and economic elites forced to live by charity. What is more, Lenski argues that marginality was characteristic of expendables in an agrarian society. According to Lenski, marginality denotes unemployability: it is the absence of skills or special knowledge regarding a vocation.²⁰⁸

Bennett's use of Lenski's theory signals his agreement with Lenski's construal of agrarian societies and the expendable people with them. The inevitability of an expendable class constructs and legitimizes a normalizing discourse that marginalizes particular groups of people based upon a singular, narrowly defined characteristic—in this case, a thoroughly modern conception of work. Lenski's theory looks all too familiar to people with disabilities and DS scholars. That widows, orphans, and aliens were unable to work is as questionable as the assumption that people with disabilities are not able to work and thus have nothing to contribute

²⁰⁷ Ibid., 58.

²⁰⁸ Ibid., 63.

to society, an assumption successfully contested by the Disability Rights Movement and Disability Studies. While Bennett may think that Lenski's theory of expendability supports his own hypothesis, it is yet another example of Bennett's unquestioning acceptance of the dominant discourses within society.

Although Bennett recognizes that references to widows, orphans, and aliens buttressed the socio-political interests of cultic officials, he does not consider the possibility that the writers and redactors of these laws in Deuteronomy constructed this group of people in a particular way to serve larger ideological and rhetorical purposes. Equally significant, according to Bennett's own hypothesis, Deuteronomic legislation that references widows, orphans, and aliens is ultimately not about them. They serve as a literary foil that reflects the power struggle between cultic officials and peasant landowners. Widows, orphans, and aliens are literary pawns in Bennett's thesis about the war over the control of commodities and the power that control brings. Bennett questions the ideology behind the laws pertaining to widows, orphans, and aliens but does not interrogate the portrayal of this group in Deuteronomy or the secondary literature. Bennett uses critical legal and sociological theory that supports his initial assumption that widows, orphans, and aliens were weak and vulnerable. Thus, in his book-length study, he further entrenches a reductive discourse by grounding it in seemingly legitimate social-scientific and critical legal theory.

2.5 Ideological Representations

Widows, orphans, and aliens are overwhelmingly defined as impoverished members, if not the poorest of the poor, of Israelite society. According to the survey above, their poverty stems from a lack of legal rights which leaves them poor and weak (Fensham), the absence of a

male head of household (Gowan, Bennett), a lack of land ownership (Lohfink), or lack of a kinship network (Sneed). Each of these reasons is rooted in Israelite social structure, primarily the *bēt ʾab* in which land was held, worked, and governed by an able-bodied male head of household.

Although their methodological approaches vary from historical-critical to narrative to ideological, each scholar surveyed above begins with the same assumptions: that widows, orphans, and aliens were impoverished due to their marginal relationship to the kinship structure and that the laws in Deuteronomy provided restitution in the form of economic support and inclusion in society that they did not have through the family structure, specifically the *bēt ʾab*. The ideological approach by Sneed and Bennett possesses the greatest potential for questioning the construction of widows, orphans, and aliens in biblical texts; however, both develop arguments that objectify widows, orphans, and aliens in favor of the interests and actions of the upper class.

Equally problematic is the ease with which scholarship draws connections between widows, orphans, and aliens in antiquity and people with disabilities today. Sometimes this move is subtle, invoking language such as “weakness,” to describe widows, orphans, and aliens, or using interchangeably the terms “poor” and “disabled.” In other instances, this connection is overt: widows and orphans lack the physical strength of an adult, able-bodied male and are, thus, poor and powerless. The interchangeable use of the language of poverty and weakness combined with the drawing of modern analogies to people with disabilities carries forward the assumptions about widows, orphans, and aliens in antiquity and transfers these characteristics (poor, dependent, and weak) to people with disabilities today. Sneed contends that concern for the less fortunate in society is a universal value, viewing it as a norm woven into the social fabric of each

particular society. Fensham and Gowan view this concern as a moral foundation or ethical imperative. What each fails to question is the ideological purpose of this construction of widows, orphans, and aliens that becomes part of the very structure of society. This conceptualization is treated as if it is benign in its “universal” form but ideological in its particular application. While Sneed recognizes the ideological use of the seemingly altruistic cause of widows, orphans, and aliens, he does not question the ideological nature of the construction itself. It is not the use of the construction as a tool of elite class interest but the very construction itself that gives the guise of justice within a system of social inequality. The ideological and rhetorical representations of this group of people in antiquity is then read historically whereby their textual construction is accepted, legitimized, and carried forward to another group of people. The negative valences and assumptions in this conceptualization of widows, orphans, and aliens in antiquity are unquestioningly applied to people with disabilities.

Conclusion

This chapter has shown that very little agreement exists about the composition of the *bēt ʿāb*, the foundation of the argument that widows, orphans, aliens, and Levites existed in Israelite society outside of the dominant kinship structure. The belief that widows, orphans, aliens, and Levites were landless and impoverished constrains every treatment of them as a group, “the alien, the orphan, and the widow,” with or without the Levite. It is as if no one can think about them in any other way. The archetypical foundations of the *bēt ʿāb* do not support the current construction of widows, orphans, aliens, and Levites.

This chapter surveyed the literature about widows, orphans, aliens, and Levites, together and individually, showing that very little disagreement exists outside of the dominant narrative

created about them. The Levites as scribes who may have authored or at least had a profound impact on the shape of Deuteronomy, acted as cult functionaries in Deuteronomy, and maintained a positive portrayal throughout the book have the greatest potential to question consider the narrative created about them in scholarly literature may be false. If Levites are not overwhelmingly poor, then perhaps widows, orphans, and aliens rather than being the vulnerable *personae miserae* of Deuteronomy may actually perform a cultic function in the book. Widows, orphans, and aliens are associated with Levites, the cult functionaries of Deuteronomy, not Levites who are associated with the impoverished outcasts of Israelite society.

CHAPTER 3

Introduction

Two intertwined themes in Deuteronomy inform this study: first, a strong agricultural motif that reconceptualizes relationship with the divine and covenant loyalty in terms of abundance and, second, the curtailment of the earthly king's role in favor of YHWH as the just king of Israel, a theme related to agricultural abundance. The just king as one who protects his people, especially the vulnerable in society, and provides food and water is a long-standing royal ideology that appears throughout ancient Near Eastern inscriptions. From the earliest known text proclaiming the virtues of Urukagina to the laws of Hammurabi, the king provides for his people which includes safety, protection—especially of widows and orphans—as well as independence, waterways, and sufficient food. This chapter will trace these intertwined themes in Mesopotamian inscriptions in order to show that Deuteronomy inherited a well-established motif of care of “the orphan and the widow.”¹ This is not to argue literary dependence but, rather, to establish the cultural milieu in which formulaic references to widows, orphans, aliens, and Levites in Deuteronomy emerged.² The idea that Deuteronomy legally mandated care for this group of people—heralded as a distinctly deuteronomic humanitarian ethic—presumes the stance that collections of biblical law were comprehensive, authoritative, and operative. Although few biblical scholars still hold that biblical law collections functioned as operative law, the disjunct

¹ Bruce V. Malchow, “Social Justice in the Israelite Law Codes,” *Word & World* 4 (1984): 299.

² Rifat Sonsino, “Characteristics of Biblical Law,” *Judaism* 33 (1984): 202.

remains between discussions of deuteronomic law and those of widows, orphans, aliens, and Levites in Deuteronomy.

F. R. Kraus's question, "What is Codex Hammurabi?" prompted inquiries into the nature and function of ancient Near Eastern law collections.³ Prior to Kraus's essay, Assyriologists began to notice that extant trial records did not refer to—and oftentimes disagreed with—the Laws of Hammurabi (LH).⁴ Further, LH omitted important subjects relevant to daily life.⁵

Due to its long history, promulgation, and multiple extant archaeological artifacts, LH provides a unique opportunity to consider the *ideological functions* of ancient Near Eastern and biblical law. LH was preserved and copied for a millennium.⁶ These copies remained very close to the original until just before the end of the Babylonian empire.⁷ That the individual laws were enclosed by a narrative and yet poetic prologue and epilogue and were displayed on at least one monumental pillar indicates that LH functioned beyond a set of practiced laws. The narrative sections of LH state as part of their purpose "to prevent the strong from oppressing the weak," an *inclusio* that frames the entire law collection.⁸ Although LH remains the most well-known source that references care of widows and orphans, this motif appears as early as 3000 B.C.E.; therefore, the formulaic references in Deuteronomy stand in a long line of ideological texts that

³ F. R. Kraus, "Ein zentrales Problem des altmesopotamischen Rechtes: Was ist der Codex Hammurabi?" *Genava* 8 (1960): 283-296.

⁴ Joshua Berman, "The History of Legal Theory and the Study of Biblical Law," *CBQ* 76 (2014): 24. Jean Bottéro, "The 'Code' of Hammurabi," in *Mesopotamia: Writing, Reasoning, and the Gods*, trans. Zainab Bahrani and Marc van de Mieroop (Chicago: University of Chicago Press, 1992), 161, 163. Raymond Westbrook, "Biblical and Cuneiform Law Codes," *RB* 92 (1985): 249.

⁵ Berman, 24. Bruce Wells, "What is Biblical Law? : A Look at Pentateuchal Rules and Near Eastern Practice," *CBQ* 70 (2008): 225.

⁶ Jean Bottéro, "The 'Code' of Hammurabi," 159, 160. Martha T. Roth, "Mesopotamian Legal Tradition and the Laws of Hammurabi," *Chicago-Kent Law Review* 71 (1995): 20. Raymond Westbrook, "Biblical and Cuneiform Law Codes," 253, 256.

⁷ Bottéro, 160. Westbrook, 256.

⁸ "Laws of Hammurabi (LH)" (i27-49 and xlvii 59-78) (Martha T. Roth, *Law Collections from Mesopotamia and Asia Minor*, [2nd ed. Society of Biblical Literature Writings from the Ancient World 6 (Atlanta: Scholars Press, 1997), 76 and 133).

celebrate “just” rulers. The content, form, and genre of these inscriptions are crucial when considering references to the protection of the widow and orphan by a just ruler as a well-established trope within the ancient Near East prior to its appearance in LH and Deuteronomy.

Mesopotamian Royal Ideology and the Just King

According to the Mesopotamian myth “Enki and Ninmah,” the higher gods oversaw the work of lower gods who were tasked with food production and canal building, until, “The gods, dredging the clay, began complaining about this life.”⁹ When Namma, the mother goddess of Enki, suggests to him to “create a substitute for the gods so they can be freed from their toil,” Enki devises a plan whereby Namma gives birth to human beings.¹⁰ Humanity, then, became responsible for providing sustenance to the gods. With the emergence of human rulers memorialized by existing inscriptions, monarchs became the conduit of protection and the means of existence for not only the gods, but also their subjects. Royal ideology hinges upon the two-fold idea that humans had a responsibility to serve the gods by providing food and water in order to secure these same necessities for their people:

[T]he ruler as representative of the people will have been responsible for making offerings on their behalf to the god(s) of their city, without which the gods’ favor could not be retained. On the other side, it is clear that the kings took credit for the economic prosperity and social order which follow from successful harvests, and it was thus very much in their interests to secure the divine favor, from which prosperity would follow.¹¹

Mesopotamian rulers sought to serve, take care of, and imitate their gods. In doing so, they proclaimed their protection of widows and orphans.

⁹ The Electronic Text Corpus of Sumerian Literature, “Enki and Ninmah: A Translation,” University of Oxford, <http://etcsl.orinst.ox.ac.uk/section1/tr112.htm>.

¹⁰ Ibid., 12-23.

¹¹ Postgate, *Early Mesopotamia: Society and Economy at the Dawn of History* (London: Routledge, 1992), 263.

Just as Mesopotamian gods served as shepherds to humanity, Mesopotamian rulers sought to serve as shepherds of their people: “In ancient Mesopotamia, *mesharum* is one of the duties of the king. He is expected to be a *shar mesharim* (a just king). This involves supervision, sound administration, and the enactment of decrees for the purpose of improving the well-being of the people.”¹² Human rulers provided temples, made food offerings, and dug canals in order to provide an abundant supply of food and water to their gods and, thus, their people. These related roles of protector and provider inform the portrayal of the just king.

Mesopotamian royal ideology seeks to establish the ruler as a protector, provider, and guarantor of justice. The king, as protector, is described as able, a strong warrior, and a shepherd of the people. As a provider, the king, through his service to the gods, secures an abundant supply of food and water, evidenced by “abundance rhetoric.” For example, Hammurabi celebrated the construction of a canal in his thirty-eighth regnal year and named it, “Hammurabi is the abundance of his people.”¹³ As the guarantor of justice, the king engages in activities such as regulating trade, distributing food, protecting vulnerable groups of people, forgiving debts, and liberating people from foreign rule or prison. Royal ideology shows an early connection to abundance rhetoric reflected in the ruler’s treatment of the gods. A good king builds houses for their local gods and provides food and water for the gods who in turn provide abundant food and water for the people.

Mesopotamian rulers also engaged in extensive canal building which both supplied water to the gods and to the king’s own people. This chapter will explore Mesopotamian references to widows and orphans in order to show that while they appear widespread, the inscriptions in

¹² Sonsino, “Characteristics,” 202.

¹³ C. J. Gadd, *Hammurabi and the End of His Dynasty*, rev. ed., The Cambridge Ancient History 35 (Cambridge: Cambridge University Press, 1965), 5.

which they appear are *highly rhetorical texts that seek to justify the kingship of their rulers who in turn were imitating Mesopotamian gods*. This study argues that the monarch's concern for widows and orphans is another facet of royal ideology whereby the king "proves" that he was a good ruler because he protected them. This poetic concern is inscribed upon durable, publicly displayed materials that seek to persuade the king's contemporaries and future generations of the king's worthiness to rule and his lasting good name and reputation.

Royal ideology begins early in recorded human history as attested by Sumerian royal inscriptions. These inscriptions portray the ruler as a just king "or more precisely the ruler's desire to prove that he was 'just.'"¹⁴ The earliest instance of royal ideology occurs in the inscriptions of Enmetena, the ruler of Lagash, which intertwines language that establishes the ruler as just with language showing him building houses for the gods and securing a water source. As a protector of the people, in La 5.4, Enmetena "cancelled obligations for Lagash, having mother restored to child and child restored to mother."¹⁵ In a separate inscription, this phrase occurs again, preceded and followed by the construction of canals.¹⁶

Royal ideology also contains another aspect: language of ability. For instance, in the prologue of Hammurabi's stele, he proclaims, "I am Hammurabi, the shepherd, selected by the god Enlil, he who heaps high abundance and plenty, who perfects every possible thing for the city of Nippur, (the city known as) band-of-heaven-and-earth, the pious provider of the Ekur temple; the capable king..." (i 50-62, i 63-ii1).¹⁷ This language of ability appears again at the beginning of the epilogue as an *inclusio*: "These are the just decisions which Hammurabi, the

¹⁴ Zhi Yang, "King of Justice," *AuOr* 9 (1991), 243.

¹⁵ Jerrold S. Cooper, *Presargonic Inscriptions* (New Haven, CT: American Oriental Society, 1986), 58.

¹⁶ *Ibid.*, 66-67.

¹⁷ "Laws of Hammurabi (LH)" in Martha T. Roth, *Law Collections*, 77.

able King, has established and thereby has directed the land along the course of truth and the correct way of life” (xlvi 1-8)¹⁸

3.1 Mesopotamian Inscriptions

Seven inscriptions, including LH, record protection of widows and orphans.¹⁹ Of the seven, two declare protection of widows and orphans by the gods, and the other five associate protection of widows and orphans with a human ruler as evidence of that ruler’s justice. The section that follows presents the inscriptions discovered to date that reference protection of widows and orphans as part of a larger scheme of glorification of an earthly ruler. Just kings provided food and water to the gods, protection and ample food supplies to his people, and protection of widows and orphans.

3.1.1 *The Reforms of Urukagina*

The earliest extant reference to the king as a protector of the widow and the orphan occurs in what are known as the “Reforms of Uru-ka-gina,” (alternately known as “Uruinimgina” or “Irikakina”), a king who ruled in Lagash around 2400 B.C.E.²⁰ The Reforms are, in fact, a hypothesized law collection. Three clay cones provide one version of the Reforms while a

¹⁸ Ibid., 133.

¹⁹ The Reforms of Urukagina; Gudea’s Cylinder B; a hymn to the goddess Nanše during the reign of Gudea; the Self-praise of Ishme-dagan; a sir nashub to the god Utu; and the prologues and/or epilogues to the law collections of Ur-Namma and Hammurabi.

²⁰ J. N. Postgate, *Early Mesopotamia*, 194. Martha T. Roth, “Hammurabi’s Wronged Man,” *JAOS* 122 (2002): 45. For the discussion surrounding his name, see Douglas Frayne, *Presargonic Period (2700-2350 BC)*, RIMP 1 (Toronto: University of Toronto Press, 2008), 245-46.

second recension consists of one clay cone and several fragments.²¹ The first half and second half of the text are poetically mirrored.²²

In those days, the head boatman appropriated boats
the livestock official appropriated asses
the livestock manager appropriated sheep
the fisheries inspector appropriated taxes
and the lustration priests measured out grain taxes (as payment) at (the town of)
AMBAR.

The shepherds of wool-bearing sheep paid (a tax) in silver instead of (the correct practice of giving) a white sheep,
And the surveyor, chief lamentation-singer, supervisor, brewer, and foreman paid (a tax) in silver instead of the (the correct practice of giving) an offering lamb.²³

Once Enlil entrusts the kingship to Urukagina, he:

He removed the boatmen from (control over) the boats,
he removed the livestock official from (control over) assess and sheep,
he removed the fisheries inspector from (control over) taxes,
he removed the silo supervisor from (control over) the grain taxes of the lustration-priests
he removed the (court bailiff) (responsible) for paying (of duties) in silver instead of white sheep and young lambs.²⁴

The second recension of the Reform texts is similar, except that Urukagina is chosen by Ningirsu “*because* the head boatmen appropriated boats, the livestock official appropriated asses and sheep, *because* the fisheries inspector appropriated taxes [emphasis added],” ending with the cancelling of debts.²⁵ A third recension in the form of a clay plaque shares only slight similarities, though with several lacunae.²⁶

²¹ Frayne explains that the first recension contains two exemplars (exemplar 1 AO3278 considered the master text and exemplar 2 AO3149). The two recensions also contain different titles for Urukagina; in an earlier version, he is called “the king of Lagash,” but in a later recension, he is “king of Girsu,” a much smaller territory. Frayne, *Presargonic Period*, 248.

²² For the narrative quality of the text, see Jerrold S. Cooper, “Medium and Message: Inscribed Clay Cones and Vessels from Presargonic Sumer,” *RA* 79 (1985): 105.

²³ Frayne, *Presargonic Period*, 259.

²⁴ *Ibid.*, 262.

²⁵ Frayne, *Presargonic Period*, 267.

²⁶ *Ibid.*, 272-74.

The narrative continues with the ruler and temple administrators appropriating land and goods, uprooting orchards of “the poor” in order to steal the fruit, the overcharging of people trying to bury their dead, and the mistreatment of blind workers. These inscriptions present a highly stylized celebration of Urukagina’s accomplishments. The part of the text that most closely resembles legislation follows this highly stylized presentation of society before and, then, during Urukagina’s reign and states that Urukagina legislated two things regarding a dependent laborer or low-level military personnel: the purchasing of a “good donkey” or a house.²⁷ In each instance, the laborer cannot be coerced into selling his property. The cones then relate that Urukagina set free any citizen of Lagash who was imprisoned for indebtedness, theft, or murder. It is at this point that the oldest reference to widows and orphans occurs. Near the end of the first recension, the inscription reads:

Urukagina made a binding	nu-siki nu-ma-kúš
oral agreement with the god	lú-á-tuku
Ninġirsu that he would	nu-na-gá-gá-a
never subjugate the orphan	nin- ġír-su-da
(or) widow to the powerful.	URU-KA-gi-na-ke
	inim-bi KA e-da-KÉŠDA ²⁸

This agreement regarding widows and orphans is immediately followed by Urukagina’s building a new canal for Ninġirsu, stating, “The canal is pure, its flood is bright—may it (ever) bring flowing water to the goddess Nanše.”²⁹ By constructing the canal, Urukagina is fulfilling his duty to provide an adequate water supply to his god. Fulfilling this duty follows his promise to protect the widow and orphan thus, linking two prominent features of nascent royal ideology: *care of*

²⁷ For *šub-lugal* as “peasant,” see Ferris J. Stephens, “Notes on Some Economic Texts of the Time of Urukagina,” *RA* 49 (1955): 133; as “dependent laborers” or “low-level military personnel,” see Allen Zagarell, “Trade, Women, Class, and Society in Ancient Western Asia,” *Current Anthropology* 27 (1986): 417.

²⁸ Frayne, 265. For sake of space, I will include transliterations only for texts that reference widows and orphans.

²⁹ *Ibid.*, 265.

widows and orphans and care of the gods. Assyriologists, like many biblical scholars, consider inscriptions proof that ancient Mesopotamian rulers were just without further consideration that the rhetorical features present in these texts more likely reveal the persuasive desires of their rulers. In this vein, Urukagina, based upon this reference to widows and orphans, is heralded as the first Mesopotamian ruler concerned for economic inequality and social justice.³⁰

3.1.2 Gudea, Cylinder B and Statue B

Proceeding in chronological order, the next reference to widows and orphans occurs in the second of two cylinders, Cylinder B, among the inscriptions of Gudea, ruler of Lagash from 2144-2124 B.C.E. This reference to widows and orphans is similar to that of Urukagina:

He paid attention to the justice
(ordained) [by Nanše] and
Ni[ngirsu]; he did not expose the
orphan [to the wealthy person] nor
did he expose the widow to the
[influential] one.³¹

níĝ-g[i-na]-^d[nanše] ni[n-ĝír-su]-k[a-šè]
èn-[im]-m[a-ši-tar]
nu-sik[i lú-níĝ-tuku] nu-m[u-na-ĝar]
nu-m[a-su] lú-[á-tuku] nu-na-[ĝar]

Gudea's Statue B commemorates his building the temple or "house" for Ningirsu. In column 7, Gudea proclaims:

I paid attention to the justice
ordained by Nanše and
Ningirsu; I did not expose the
orphan to the wealthy person,
nor did I expose the widow to
the influential one.³²

níĝ-gi-gi-na-
^dnanše
^dnin-ĝír-su-ka-šè
èn-im-ma-ši-tar
nu-siki lú-níĝ-tuku nu-mu-na-ĝar
na-ma-su lú-á-tuku nu-na-ĝar

³⁰ Postgate, *Early Mesopotamia*, 194. Yang, "King of Justice," 245-46. Yang goes so far as to characterize the reference to widows and orphans as the "general goals of the reforms" which she articulates as "protection of the socially underprivileged," 245-46. In the very next sentence, Yang admits that the Sumerian word for "justice" does not occur in the so-called Reforms of Urukagina.

³¹ Dietz Otto Edzard, *Gudea and His Dynasty*, RIMP 3 (Toronto: University of Toronto Press, 1997), 98. For specific lines of text, I will cite the column number and lines followed by a page number.

³² Edzard, *Gudea*, 32.

After Gudea recounts his elaborate construction of Ningirsu's house, he requests that his statue communicate to "my lord:"

I had debts remitted and "washed all hands." For seven days no grain was ground. The slave-woman was allowed to be equal to her mistress, the slave was allowed to walk side by side with his master. In my city the one (who appeared) unclean to Ningirsu to someone was permitted to sleep (only) outside. I had anything disharmonious turned right back "to its house" (i.e. where it belongs).

I paid attention to the justice ordained by Nanše and Ningirsu; I did not expose the orphan to the wealthy person, nor did I expose the widow to the influential one.

In a house with no male child, I let the daughter (of the house) become its heir.³³

This section ends the first-person speech of Gudea, and the last section pronounces curses upon anyone who alters his statue.

The text in Cylinder B displays language of ability and protection, two aspects of royal ideology, by presenting Gudea as an able protector of his people: "The true shepherd Gudea is wise and able [literal translation: 'to be big']."³⁴ He faithfully serves his gods, building their houses and overseeing their worship, including lavish food offerings: "He used syrup and butter (to prepare) food for the gods, (all) things untouched by fire; syrup, butter, wine, sour milk, *gipar*-fruit, fig-cakes topped with cheese, dates in clusters(?), small grapes."³⁵ Gudea constructed a lavish temple for Ningirsu and Bau, and when "Bau had entered her women's quarters—(that meant) abundance for the land of Lagaš."³⁶ By building Ningirsu's and Bau's houses and providing offerings, Gudea secures abundance for his people:

That (from now on) the river be full of flowing water, that there be carp and perch (?) in the marshes

That the inspector of fisheries and the dyke inspector might assist, that barley might be filled in (and shipped) on the great waters, that tons, heaps and tons, the income of the land of Lagaš might be piled up;

³³ Ibid., 7.29-43, 36.

³⁴ Ibid., 18.4-7, 89.

³⁵ Ibid., 3.18-24, 90.

³⁶ Ibid., 5.16-18, 91.

That cattle-pens and sheep folds be built, that lambs might abound around healthy ewes, that rams be let loose on the healthy ewes, that many calves might stand by the healthy cows, and that the pure-bred sire might low among them...
 did Gudea come before lord Ningirsu³⁷

In fulfillment of his duty as a just ruler, Gudea builds Ningirsu a home, plies the god with offerings of food, and, thus, secures water resources for his people.

3.1.3 A Hymn to Nanše

A hymn to the goddess Nanše, during the time of Gudea, references widows and orphans three times. These references occur within the frame of abundance rhetoric. After an introduction celebrating Nanše's return to the "perfect" city, Niġin, the description of Nanše begins:

She is beer mash (?), the mother is yeast (?), Nanše is the cause of great things: her presence makes the storehouses of the land {bulge} {(1 ms. has instead:) prosper} and makes the honey ... like resin in the storerooms. Because of her, there stand vessels with ever-flowing water; because of Nanše, the baskets containing the treasures of the Land cover the ground like the silt of the river. She is the lady of
 [1 line unclear]
 Nanše is the lady who raises high the channels for the meadows and the irrigation ditches.³⁸

Abundant food and water for both drinking and irrigation are clearly attributed to Nanše. This abundance rhetoric related to food is immediately followed by Nanše's concern for the widow and the orphan:

She is concerned for the orphan and concerned for the widow. She does not forget the man who helps (?) others, she is a mother for the orphan; Nanše, a carer for the widow, who always finds advice for the debt-slave; the lady who gives	nu-siki mu-un-zu nu-mu-un-su mu- un-zu lu ₂ lu ₂ -ra a ₂ jal ₂ -la mu-un-zu nu-siki- ka ama-a-ni ^d nance nu-mu-un-su-a sa _j en ₃ tar-ra-a- ni e ₂ ur ₅ -ur ₅ -ra sa ₂ pad ₃ -pad ₃ -de ₃ nin-e lu ₂ -kar-ra ur ₂ -ra bi ₂ -in-tum ₂ -mu
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³⁷ Ibid., 14.25-26, 15.1-9, and 16.1-2, 96-97.

³⁸ The Electronic Corpus of Sumerian Literature, "A Hymn to Nanše (Nanše A)," The University of Oxford, <http://etcsl.orinst.ox.ac.uk/cgi-bin/etcsl.cgi?text=c.4.14.1&display=Crit&charenc=&lineid=c4141.10#c4141.10>.

protection for refugees. She seeks out a place for the weak. She swells his collecting basket for him; she makes his collecting vessel profitable for him. For the righteous maiden who has taken her path, Nanše chooses a young man of means. Nanše raises a secure house like a roof over the widow who could not remarry.

sig⁹-ga-ar ki mu-na-ab-kij₂-kij₂-e
gi-gur cu DU-ni mu-na-ab-buluj₃-e
^{dug}cajan cu DU-ni ku-dun mu-na-
tuku-tuku
geme₂ si sa₂ jiri₃-ni mu-un-dab₅-ba
^dnance cul a₂ zid-da tuku-ni im-ma-ni-
in-saj₅-e
nu-mu-un-su lu₂ dam nu-tuku-ni
^dnance jic-ur₃-gin₇ e₂ zid-da im-ma-an-
gur₃-ru-nam³⁹

Although the text of the hymn clearly associates widows and orphans with vulnerable groups, such as the “weak” and “debt slaves,” it does not equate widows and orphans to the poor and powerless in Sumerian society.

The next reference to widows and orphans occurs late in the hymn:

For the lady who cares for all the countries, the queen, Mother Nanše, sees into their hearts: the orphan who, the widow who, the waif delivered up to the powerful, the powerful delivered to the powerless

nin saj en₃ tar kur-kur-ra-ke₄
in-nin ama ^dnance cag₄-ba igi mi-
ni-in-jal₂
nu-siki ka saj-ja₂ ak nu-mu-su GIL
aj₂-je₂₆-da
ki-gul-la a₂-tuku-ur₂ ja₂-ja₂-da
a₂-tuku a₂ nu-tuku-ra ja₂-ja₂-da⁴⁰

Although this text is incomplete, references to widows and orphans appear adjacent to each other in a stylized form. Nanše is considered the goddess of social justice, but there is clearly a separate dynamic at work in his part of the hymn, for Nanše also cares for the “powerful delivered to the powerless.”

³⁹ Ibid., 20-31.

⁴⁰ Ibid., 163-167.

3.1.4 A *Širnašub* to Utu (Utu F)

The *Širnašub* to Utu, or Utu F, dates to the Larsa Dynasty, 2003-1763 B.C.E. The *širnašub* form, usually translated, “incantation,” is a small group of texts which shares literary features that place the form within the genre of hymns.⁴¹ One such text to the god Utu inscribed on a tablet contains the designation *širnašub*. The final lines begin with a chiasmic form, A, B, B', A', addressed to those “who venture forth single-handed:”

For those who venture forth single-handed, who venture forth from a man's house, for those who venture forth from a man's house, who venture forth single-handed, Utu: you are their mother, Utu, you are their father. Utu, as for the orphans, Utu, as for the widows, Utu: the orphans look to you as their father, Utu, you succour the widows as their mother.⁴²

cu AC ed₂-da-ke₄ e₂ lu₂ ed₂-da-ke₄
e₂ lu₂ ed₂-da-ke₄ cu AC ed₂-da-ke₄
utu ama-bi-me-en ^dutu a-a-bi-me-en
utu nu-siki-ke₄ ^dutu nu-mu-su-e
utu nu-siki-ke₄ a-a-ni-gin₇ igi-bi ma-
ra-pad₃
utu nu-mu-su-e ama-bi-gin₇ cu gi₄-
gi₄-bi-me-en

Utu acts as father to the orphan and mother to the widow in effect poetically creating familial bonds. It is not clear why Utu acts as a “mother” to the widow or why this is here translated “succor” (to give help or aid) when the word “*cu*” meaning “hand” ties nicely to the chiasm at the beginning of the section: Utu lends a *hand* to those who are “single-handed.”

3.1.5 A Praise Poem of Išme-Dagan

A short reference to widows and orphans occurs in a lengthy poem where king Išme-Dagan, who ruled from approximately 1889-1871 B.C.E., celebrates his many virtues and achievements. The lines preceding the reference to widows and orphans are damaged; however, widows and orphans are associated with the dispossessed (although the translation is

⁴¹ Mark E. Cohen, “The Incantation-Hymn: Incantation or Hymn?” *JAOS* 95 (1975): 592-611.

⁴² The Electronic Corpus of Sumerian Literature, “A Hir-Namshub to Utu (Utu F): Translation,” The University of Oxford, <http://etcsl.orinst.ox.ac.uk/section4/tr432f.htm>.

questionable) and bondsmen. Išme-Dagan declares, “I have supported the appeals of bondsmen, of waifs and widows who cry "Alas, Utu!" or "Alas, Nanna!" [cu du₃-a nu-siki nu-mu-su-a i-^dutu i-^dnanna].”⁴³ The poem characterizes widows and orphans as crying out to the gods and emphasizes the king’s role to represent them in legal proceedings. In the same section, Išme-Dagan states that he has “kept the just on the proper track,” showing that the king is responsible for all of the people’s actions.⁴⁴

3.1.6 The Laws of Ur-Namma

The prologue to the laws of Ur-Namma, written during the reign of Ur-Namma, ca. 2112-2095 B.C.E., or his son Shulgi, 2094-2047 B.C.E., presents a more well-developed rhetoric of justice; however, the reference to widows and orphans is strikingly similar to early predecessors:

I did not deliver the orphan to the rich. I did not deliver the widow to the mighty.	nu-sig lú nig-tuku-ra ba-ra-an-na-gar nu-mu-un-su lú á tuku-ra ba-ra-an-na- gar lú (A iv 162-168, C ii 30-39) ⁴⁵
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The preserved beginning of the prologue lists Ur-Namma’s ample food offerings to the gods: “[H]e established 21,600 silas of barley, 30 sheep, 30 silas of butter, per month, as regular offerings...in the land” (A i 1-30).⁴⁶ The prologue is governed by a chiasitic structure involving a temporal marker and Ur-Namma’s establishing justice, “At that time...I established justice in the land (A iii 114-124)...I established justice in the land at that time” (A iv 169-170, C ii40-51).⁴⁷

⁴³ The Electronic Corpus of Sumerian Literature, “A Praise Poem of Išme-Dagan (Išme-Dagan A + V),” lines 200-223, The University of Oxford, <http://etcsl.orinst.ox.ac.uk/cgi-bin/etcsl.cgi?text=t.2.5.4.01&display=Crit&charenc=&lineid=t25401.p13#t25401.p13>.

⁴⁴ Ibid.

⁴⁵ “Laws of Ur-Namma (LU)” in Martha T. Roth, *Law Collections*, 13, 16.

⁴⁶ Ibid., 15.

⁴⁷ Ibid., 15, 17.

Within this chiasmic structure, the prologue echoes Urukagina's Reforms in that Ur-Namma freed people during a time when those in power took advantage of them:

At that time, the *nisku*-people had control of the fields, the sea-captains had control of the foreign maritime trade...those who appropriate(?) [the oxen]...those who appropriate (?) [the sheep] (A i 32-42).

[At that time (I)], Ur-Namma [mighty warrior, lord of the city of Ur, king of the lands of Sumer and] Akkad, [by the might] of the god Nanna, my lord, [by the true command of the god Utu(?)], I established [justice in the land(?)] (A iii 104-113).

[...] I returned. I established freedom for the Akkadians and foreigners(?) in the lands of Sumer and Akkad, for those conducting foreign maritime trade (free from) the sea-captains, for the herdsmen (free from) those who appropriate(?) oxen, sheep, and donkeys (A iii 114-124).⁴⁸

The prologue continues relating how Ur-Namma freed territories from Anshan, standardized weights and measures, regulated boat traffic on the Tigris and Euphrates rivers, secured safe roads, and planted an orchard. The prologue concludes, "I eliminated enmity, violence, and cries for justice. I established justice (*nig-si-sá*) in the land, at that time" (A iv 169-170, C ii 40-51).⁴⁹

The law collection that follows, albeit incomplete, contains two laws regarding widows that concern marriage and sexual relations. First, within the context of divorce, a distinction is made between a man divorcing a "first-ranking wife" who must pay 60 shekels of silver (Bi 20-24, C iv 93-97). On the other hand, if he divorces a widow, then he must pay 30 shekels, indicating that the marriage to a widow is less valued than a "first-ranking wife" (A vi 246-249, B i 25-29, Civ 93-97). The second law provision states that if a man has sexual relations with a widow "without a formal contract" that he is not obligated to pay her anything in the surmised event of a divorce (A vi 250-254, B i 30-36).⁵⁰ The law provisions preserved in the Ur-Namma collection do not share any similarities with the statements about widows in the prologue, and there are no law

⁴⁸ Ibid., 15-16.

⁴⁹ Ibid., 16-17.

⁵⁰ Ibid., 18.

provisions protecting orphans. This lack of cohesion is one of the strongest arguments for the ideological use of references to widows and orphans as a rhetorical feature of royal ideology. Rulers traded upon the social capital such declarations supplied as proof of and justification for their reigns.

3.1.7 The Laws of Hammurabi

The law collection of Hammurabi contains one of the most well-known, most cited references to widows and orphans. The reference occurs in the epilogue:

In order that the mighty not wrong the weak, to provide just ways for the waif and widow, I have inscribed by precious pronouncements upon my stela and set it up before the statue of me, the king of justice, in the city of Babylon, the city which the gods Anu and Enlil have elevated, within the Esagil, the temple whose foundations are fixed as are heaven and earth, in order to render the judgments of the land, to give verdicts of the land, and to provide just ways for the wronged (xlvi 59-78).⁵¹

The stela deliberately links this reference to “the waif and widow” to the medium itself, a monument dedicated to Hammurabi as a just ruler, with its “imposing physical presence.”⁵² The stele presents the prologue, law collection, and epilogue as a “unified message.”⁵³ A bas-relief sculpture at the top of the stele depicts Hammurabi standing before the seated god Shamash.⁵⁴ Interpretations of the relief image view the image as Hammurabi “receiving the insignia of royal power;”⁵⁵ that Hammurabi is giving “the emblems of sovereignty” to Shamash; or—more fitting with royal ideology—that Hammurabi is holding “the measuring tools of the rod-measure and rope-measure used in temple building.”⁵⁶ The stele also exhibits “deliberate archaizing,” and

⁵¹ “Laws of Hammurabi” in Roth, *Law Collections*, 133-34.

⁵² Roth, “Mesopotamian Legal Tradition,” 18.

⁵³ *Ibid.*, 16.

⁵⁴ *Ibid.*, 21.

⁵⁵ Bottéro, “The ‘Code’ of Hammurabi,” 157

⁵⁶ *Ibid.*, 22.

“literary language in the prologue and epilogue” that establish its rhetorical function and force.⁵⁷

It is not accidental that the epilogue makes a reference to the widow and the orphan; it is integral to Hammurabi’s depiction of himself a good and just king.

The stele also displays a well-developed royal ideology, most notably, Hammurabi as the able ruler, the shepherd of his people who provides abundance, and the self-proclaimed “king of justice.” The prologue and epilogue repeat descriptions of Hammurabi with almost exactly the same terminology. The prologue describes Hammurabi as the “capable king [*šarrum lē²ûm*]” (i 63-ii 1, iii 47-54) and “the able one [*telītim*],” while the epilogue states he is “the able king [*šarrum lē²ûm*]” (xlvii 1-8) and “noble king [*šarrum gitmālum*]” (xlvii 9-58).⁵⁸ In fact, the prologue presents Hammurabi’s ability as equal to none: “I am the king preeminent among kings. My pronouncements are choice, my ability (*lē²û²tī*) is unrivaled (i 50-62).”⁵⁹ In the beginning sections of the prologue and epilogue, Hammurabi’s name appears twice creating an *inclusio* that encloses the law collection. In the prologue, Hammurabi’s name appears after a long introductory relative clause announcing his “enlil-ship” or appointment as king by the god Enlil, where he is called “pious prince,” In the second occurrence, Hammurabi declares “I [*anāku*] am Hammurabi, the shepherd selected by the god Enlil he who heaps high abundance and plenty, who perfects every possible thing for the city Nippur” (xlvii 79-xlvii 2).⁶⁰ In the epilogue, Hammurabi again declares:

I [*anāku*] am Hammurabi, perfect king. I have not been careless or negligent toward humankind, granted to my care by the god Enlil, and with whose shepherding the god Marduk charged me. I have sought for them peaceful places...I made the people of all settlements lie in safe pastures...The great gods having chosen me, I am indeed the shepherd who brings peace, whose scepter is just (xlvii9-58).⁶¹

⁵⁷ Ibid.

⁵⁸ “Laws of Hammurabi” in Roth, *Law Collections*, 77, 133.

⁵⁹ “Laws of Hammurabi” in Roth, *Law Collections*, 134.

⁶⁰ Ibid., 77.

⁶¹ Ibid., 133.

The addition of a prologue and epilogue, replete with royal ideology and publicly displayed as an homage to Hammurabi's rule, has a rhetorical effect which transforms the text into something that functions as more than a mere collection of laws: "The prologue and epilogue clearly are not farfetched and superfluous pieces; they are essential for the entire work, whose profound meaning they indicate in their own way."⁶² Further, "The laws were a scientific or academic work at home in the school or the courtroom, but, when wrapped in the royal inscription, their purpose morphed from that of edifying judges or scribes to that of the royal monument, namely glorifying the king."⁶³

Abundance language, illustrating Hammurabi's duty as a human being to the gods which in turn secures abundance for his people, permeates the prologue and epilogue of LH.

Hammurabi is he:

...who heaps high abundance and plenty [*nuḥšim u tuḥdim*] (i 50-62)
 ...the "enricher of the city of Ur...who provides abundance [literal translation: wealth, *ḥegallim*] for the Enishgal temple (ii 13-21)
 ...who revitalizes the city of Uruk, who provides abundant [*nuḥšim*] waters for its people (ii 37-47)
 ...who heaps up bountiful produce [*ḥiṣbim*] for the gods Anu and Ishtar (ii 37-47)
 ...who supplies abundance [*nuḥšim*] for the temple of Egalmah (ii 48-54)
 ...who heaps up storage bins for the mighty god Urash (iii 17-23)
 ...who provides the pure offerings for the goddess Nintu (iii 24-35)
 ...who provides plentiful food offerings for the Enninu temple (iii 36-46)
 ...who give waters of abundance to the Emeslam temple (iii 70-iv 6)
 ...who decreed eternal pure food offerings for the god Enki and Damkina (iv 7-22)
 ...who provides pure feasts for the goddess Ninazu (iv 32-44).⁶⁴

In the epilogue, Hammurabi threatens the opposite of abundance to any future ruler who does not "heed my pronouncements which I have inscribed on my stela...and thus overturn the

⁶² Bottéro, "The 'Code' of Hammurabi," 158.

⁶³ Victor A. Hurowitz, "What Was the Codex Hammurabi and What Did It Become?" *Maarav* 18 (2011): 91.

⁶⁴ Ibid., 77-80. Subsequent to forming my list, I found a similar list in David Wright's book where he argues that the Covenant Code in Exodus has a literary dependence on LH. I did find the format of his helpful and followed his formatting here. See, David P. Wright, *Inventing God's Law: How the Covenant Code of the Bible Used and Revised the Laws of Hammurabi* (New York: Oxford University Press, 2009), 75-76.

judgements that I rendered, change my pronouncements, alter my engraved image, erase my inscribed name and inscribe his own name” (xliv 18-44).⁶⁵ Hammurabi invokes curses upon that ruler “years of famine (xlix 53-80)” and “destruction of his land (xlix 81-97).” Hammurabi’s curses continue:

...May the god Ea...dam up his rivers at the source; may he not allow any life-sustaining grain in his land (xliv 98-1 13).⁶⁶

...May the god Adad, lord of abundance, the canal-inspector of heaven and earth, my helper deprive him of the benefits of rain from heaven and flood from the springs, and may he obliterate his land through destitution and famine...may he turn his land into the abandoned hills left by flood (1 64-80).⁶⁷

The curses also include references disability:

May the goddess Ninkarrak, daughter of the god Anu, who promotes my cause in the Ekur temple, cause a grievous malady to break out upon his limbs, an evil demonic disease, a serious carbuncle which cannot be soothed, which a physician cannot diagnose, which he cannot ease with bandages, which, like the bite of death, cannot be expunged; may he bewail his lost virility until his life comes to an end (li 50-69).⁶⁸

Abundance language occurs in two other inscriptions: “Inscription Recording the Building of a Granary in Babylon” and “Inscription Recording the Cutting of the Nuḫuš-niši Canal.”⁶⁹ In the Granary inscription, Hammurabi purports to build a grain silo for the god Bēl:

For Bēl, the great lord of heaven and earth, king of the gods, my lord, I, Hammurabi, the prince in whom Bēl takes delight, the beloved shepherd of Ninib, the reverent one who shows obedience to Shamash, and makes glad the heart of Marduk, the mighty king, the king of Babylon, the humble and reverent one [...] –when Bēl gave (me) the peoples of his land to rule and set the sceptre thereof within my hands, I made (in) Babylon, his beloved city, a granary to rejoice his heart.⁷⁰

⁶⁵ Ibid., 136.

⁶⁶ Ibid., 137.

⁶⁷ Ibid., 138.

⁶⁸ Ibid., 139-40.

⁶⁹ L. W. King, *The Letters and Inscriptions of Hammurabi, King of Babylon, About B.C. 2200: To Which Are Added a Series of Letters of Other Kings of the First Dynasty of Babylon*, Luzac’s Semitic Texts and Translation Series 3 (New York: AMS Press, 1976), 188-93.

⁷⁰ Ibid., 3:193.

However, a storage facility for grain directly benefits the people of Babylon. Although some of the grain might have been used as a food offering to the gods, a granary implies a much larger store of grain likely consumed by the people. In Hammurabi's canal inscription, he again calls himself a "shepherd" who "pastures" the people, commemorating the rich abundance he has provided:

When Anu and Bēl gave (me) the land of Sumēr and Akkad to rule and entrusted their scepter to my hands, I dug out the Ḥammurabi-canal (named) Nuḥuš-niši, which brings abundance of water to the land of Sumēr and Akkad. Both the banks thereof I changed to fields for cultivation, and I garnered piles of grain, and I procured unfailing water for the land of Sumēr and Akkad.

As for land of Sumēr and Akkad, I collected the scattered peoples thereof, and I procured food and drink for them. In abundance and plenty I pastured them, and I caused them to dwell in a peaceful habitation.⁷¹

The name of the canal, Nuḥuš-niši, means "The abundance of the people."⁷²

Hammurabi's date formulae or "king years" show a remission of debts at the beginning of his reign. In year one, the date formula states simply, "Hammurabi (became) king," and in year two, "He established justice [*mīšaru*] in the country," which most likely refers to a general remission of debts in keeping with Mesopotamian royal ideology.⁷³ Abundance language also occurs in two of Hammurabi's date formulae. In year twenty-eight, "The temple of é.nam.ḫé (House of Abundance) of Adad in Babylon was built."⁷⁴ In year nine, "The canal (called) Hammurabi-hegal (was dug)," and in year thirty-three, Hammurabi maintains the canal explaining: "He redug the canal (called) "Hammurabi (spells)-abundance-for-the-people, the Beloved-of-Anu-and-Enlil," (thus) he provided Nippur, Eridu, Ur, Larsa, Uruk (and) Isin with a

⁷¹ Ibid.

⁷² Ibid., 3:191, note 1.

⁷³ See note 1 in: James B. Pritchard, ed. *Ancient Near Eastern Texts Relating to the Old Testament with Supplement*, 3rd ed. (Princeton, NJ: Princeton University Press, 1969), 269.

⁷⁴ Ibid., 270.

permanent and plentiful water supply.”⁷⁵ Abundance language commemorates his actions and his legacy. The imagery of Hammurabi as a just protector of his people in conjunction with pervasive abundance language works together to establish Hammurabi as a worthy king and an exemplar for future rulers.

Victor A. Hurowitz, in a distinctly literary study of LH, analyzes the rhetoric and structure of LH. Eschewing the division of LH into juridical and non-juridical sections and the further division of the prose sections into “prologue” and “epilogue,” he argues that the prologue and the epilogue are a unified composition.⁷⁶ The thoughts, language, and structure of the prologue govern the epilogue.⁷⁷ According to Hurowitz, LH displays a complicated system of literary devices, a “command-fulfillment” structure, whereby the prologue serves as the command and the laws and the epilogue, the fulfillment.⁷⁸ These literary devices span the prologue and epilogue.⁷⁹

Hurowitz goes to great lengths to prove a thesis by a complex system of literary devices, when the prologue and epilogue of Hammurabi evince a simpler, elegant literary structure. There are, in fact, several *inclusio* that frame the prologue and tie it to the epilogue. If, as Hurowitz argues, one were to excise the second reference to Marduk, the sequence of divine appointment would be lost: “*When the august god Anu, king of the Anunnaku deities, and the god Enlil, lord*

⁷⁵ Ibid.

⁷⁶ Victor Hurowitz, *Inu Anum Sirum: Literary Structures in the Non-Juridical Sections of Codex Hammurabi*, (Philadelphia: University of Pennsylvania Museum), 1-8.

⁷⁷ Hurowitz, *Inu Anum Sirum*, 6.

⁷⁸ Ibid., 52.

⁷⁹ Hurowitz ultimately seeks to make an argument for a construction of an *Urtext* for LH. In doing so, he lists seven literary devices: *inclusio*, concatenation (the linking of two or more units by repeating one or several words from the first unit, for example AXA’; BXYB’), fan-concatenation (repetition at the extremities of or throughout what he considers a “well-defined unit”), chiasm, concentricity, paranomasia, pun, assonance, and associate, and seven-fold repetition. See, Hurowitz, *Inu Anum Sirum*, 8-10. Of the textual variants of LH, Ms A, Ms B, and the Louvre stele, Hurowitz considers Ms B superior to Ms A; therefore, he constructs his ideal text from the Louvre stele and Ms B. In this way, he “proves” the existence of a seven-fold repetition of Hammurabi’s name. Hurowitz, *In Anum Sirum*, 65-66.

of heaven and earth who determines the destinies of the land, allotted supreme power to the god Marduk (i 1-16)” and “*When the god Marduk commanded me...*” (v 14-24 and v 25). Within the temporal markers, several *inclusio* form a ring structure within the prologue:

A *At that time*, the gods Anu and Enlil,
 B for the *enhancement of the well-being of the people*, named me by name
 C to make justice prevail in the land (i 27-49)
 D *I am* Hammurabi (I 50-62)
 E Long apposition describing Hammurabi’s deeds
 D’ favored of the goddess Ishtar *am I* (iv 64-v 13)
 C’ I established truth and *justice in the land*
 B *I enhanced the well-being of the people*
 A’ *At that time*.

By accepting this rhetoric, Hurowitz misses a clear and elegant *inclusio* linking the prologue to the epilogue:⁸⁰

dannum enšam ana la ḥabālim (i 27-49)
 the strong—the weak—not to harm

dannum enšam ana la ḥabālim ekūtam almattam šutēšurim (xlvi 59-78)
 the strong—the weak—not to harm; the orphan, the widow to lead aright

This phrase in the prologue occurs as one of many actions on the part of Hammurabi: venerating the gods, making justice prevail, abolishing the wicked and the evil, preventing the strong from harming the weak, and rising like Shamash over human beings to illuminate the land (I 27-49); however, the reference to widows and orphans becomes a metonym for social justice without taking into consideration the rhetorical use of this language.

For Hurowitz, “I placed in the mouth of the land” [ina pî mātīm aškun] is an “interpretive crux” (citing Deut 31:19 and 21), and he considers “truth and justice” and “king of justice” chiasm and paranomasia. Hurowitz follows Finkelstein who regards Mesopotamian law

⁸⁰ I first noticed Hurowitz’s omission and subsequently found Roth’s notation of the same: Martha T. Roth, “Hammurabi’s Wronged Man,” *JAOS* 122 (2002): 40.

collections as “royal inscriptions of the apologia genre,” by recognizing the ideological nature of LH:

It is quite obvious that the laws in Codex Hammurabi are encompassed fore and aft by lengthy discourses which offer a historical and ideological context for the laws. These sections are clearly distinct from the laws in content, language, and literary style.⁸¹

Finkelstein elaborates:

It is probably well to stress first of all that the purpose of the Lower Mesopotamian “law codes” was decidedly not legislative, if indeed it is not altogether anachronistic to speak of “legislation” in the ancient Mesopotamian context. These “law codes” with their stylized prologues and epilogues of purely “historical” and religious import must be viewed in the first instance as royal apologia and testaments. Their primary purpose was to lay before the public, posterity, future kings, and above all, the gods, evidence of the king’s execution of his divinely ordained mandate: to have been “the Faithful Sheperd [*sic.*]” and the *šar mīšarim*.⁸²

However, Hurowitz subscribes to the rhetoric that Hammurabi *was* a just king. He takes Hammurabi’s proclamation to protect widows and orphans, “so that the strong will not oppress the weak” at face value, arguing that Hammurabi sought to “give justice” to the orphan and widow and thus, “the oppressed,” placing divine and “social service” as equal goals.⁸³ Hurowitz makes much of the fact that the Louvre stele records “social service” rather than construction projects; however, several extant inscriptions celebrate Hammurabi’s building projects.⁸⁴

The instructions to the “wronged man” in the epilogue typically serve as another piece of evidence for Hammurabi’s just reign, when, in fact, these “instructions” provide no recourse for the wronged person. The “wronged man” is a *ḫablum* or “harmed” man (xlvi 3-19), the same term for “the weak” in the *inclusio* that connects the prologue to the epilogue (i 27-49 and xlvii

⁸¹ Ibid., 4-5.

⁸² J.J. Finkelstein, “Ammišaduqa’s Edict and the Babylonian ‘Law Codes,’” *JCS* 15 (1961): 103. It should be noted here that Westbrook disagrees with Finkelstein’s argument of the establishment of a separate genre of royal apology. See Westbrook, “Biblical and Cuneiform Law Codes,” *RB* 92 2 (1985): 249-50.

⁸³ Ibid., 48-49, 61, and 102-103.

⁸⁴ Seven inscriptions detail Hammurabi’s building projects. See: King, *Letters and Inscriptions*, 3:177-94.

59-78).⁸⁵ That person is to stand before Hammurabi's stele and have Hammurabi's pronouncements read to him in order to reveal the lawsuit. At that point the wronged person is to "examine his case," "calm his (troubled) heart," and praise Hammurabi, saying:

Hammurabi, the lord, who is like a father and begetter to his people, submitted himself to the command of the god Marduk, his lord, and achieved victory for the god Marduk everywhere. He gladdened the heart of the god Marduk, his lord, and he secured the eternal well-being of the people and provided just ways for the land (xlvi 20-38).⁸⁶

The wronged man is instructed, not to pray for his case or justice for his case, but to praise Hammurabi for the benefit of Hammurabi, not himself. In the next section, Hammurabi states:

May he say thus, and may he pray for me with his whole heart before the gods Marduk, my lord, and Zarpanitu, my lady. May the protective spirits, the god who enters the Esagil temple, and the very brickwork of the Esagil temple, make my daily portents auspicious before the gods Marduk, my lord, and Zarpanitu, my lady (xlvi 39-58).⁸⁷

The wronged man's prayer is a foil for Hammurabi's standing before the gods.⁸⁸ This term, *ḫablum*, occurs in only one law provision in the law collection, LH ¶ 34:

If either a captain or a sergeant should take a soldier's household furnishings, wrong [*iḫtabal*] a soldier, hire out a soldier, deliver a soldier into the power of an influential person in a law case, or take a gift that the king gave a soldier—that captain or sergeant shall be killed.⁸⁹

Notably missing, as well, are law provisions that protect children whose status is that of an orphan, as evidenced by the lack of terminology for orphan anywhere in the law collection. Only a single law provision mentions widows, (¶177), a provision for the inheritance of a widow's young children should she remarry.⁹⁰

⁸⁵ "Laws of Hammurabi" in Roth, *Law Collections*, 76, 132-33.

⁸⁶ Ibid., 134-35.

⁸⁷ Ibid.

⁸⁸ Roth, too, thinks that this passage provided no real recourse for a wronged person. See: Roth, "Hammurabi's Wronged Man," 39.

⁸⁹ Ibid., 41-42

⁹⁰ Roth, *Law Collections*, 116.

Although LH presents a more developed rhetoric of justice than earlier Mesopotamian texts, the law collection contains few law provisions protecting widows and none protecting orphans which stands as an indictment of Hammurabi's self-understanding as a ruler who established justice. If, in fact, these were vulnerable groups protected by the king, one would expect to see laws concerning them. The law provisions do not support Hammurabi's contentions in the prologue and epilogue which leads to the conclusion that the phrase, "so that the strong shall not wrong the weak," in the prologue and epilogue of LH, serves a rhetorical function.

3.1.8 The King of Justice

The Late Babylonian text, "The King of Justice," is a narrative text which refers to "the cripple and the widow" in the context of prior corrupt kings:

(3) The strong used to plunder the weak, who was not equal to a lawsuit. (4) The rich used to take the property of the poor. (5) Regent and prince would not take the part of the cripple [*a-ku-tu*] and the widow before the judge, (6) and if they came before the judge, he would not preside over their case.⁹¹

On the other hand, the text states of the King of Justice:

(22) He was not negligent in the matter of true and righteous judgment, he did not rest night or day, (25) but with council and deliberation he persisted in writing down (23) judgments and decisions arranged to be pleasing to the great lord, Marduk, (24) and for the betterment of all the peoples and the settling of the land of Akkad. (26) He drew up improved regulations for the city, he built anew the law court.⁹²

The King of Justice text shows a literary dependence upon LH and, much more than that, the continuing importance of the ideals articulated by LH.⁹³ The King of Justice:

⁹¹ W. G. Lambert, "Nebuchadnezzar King of Justice," *Iraq* 27 (1965): 8. Lambert identifies the King of Justice as Nebuchadnezzar II based upon the king having conquered Egypt. See Lambert, "King of Justice," 8.

⁹² Lambert, "King of Justice," 8.

⁹³ Victor A. Hurowitz, "Hammurabi in Mesopotamian Tradition," in *An Experienced Scribe Who Neglects Nothing: Ancient Near Eastern Studies in Honor of Jacob Klein* (Bethesda, MD: CDL Press, 2005), 497-532. Lambert called the King of Justice a "second Hammurabi." See Lambert, 3.

[A]chieved his life's ambition of being the ideal "King of Justice" in Mesopotamian consciousness, and his *dīnāt mīšarim*, even though not obviously normative in his own lifetime, remained a model for justice until the twilight of the Mesopotamian civilization.⁹⁴

The text also continues the tradition of the king as the provider for the gods. The text states that this king offered the gods "every day without fail:"

(5) abundant mighty oxen, fat sheep...(6) chicken, duck *marratu*-birds, [pigeons], dormice (7) strings of fishes, fruits of the orchard in large quantity, [the luxuriance] of the plantations, [apples], figs, pomegranates, grapes, dates, Tilmun-gardens, (9) raisins dried figs, abundant vegetables, (10) [the profusion] of the gardens, fine quality mixed beer, honey, butter, (11) refined oil, first quality milk, sweet *ulušinnu*-beer, (12) 'first' beer, grain, (13) wine, the best of the mountains and all lands, (14) the best that he had, (15) the pleasant luxuries of mountains and seas he gave to eat, (16) in abundance he offered it before the great gods.⁹⁵

Like Hammurabi's assertion that his acts of justice are unrivaled, this king claims that status for himself in that he superseded the justice of any king before him: "(17) What no one had done like this from time immemorial, (18) they received from his pure hands for eternity, (19) and constantly blessed his kingship."⁹⁶

3.1.9 Mesopotamian Inscriptions and Royal Ideology

The preceding inscriptions, except for the *Širnašub* to Utu, refer to widows and orphans in the singular as an abstract category of people. Further, these references to widows and orphans are embedded in highly stylized and poetic texts. The "Reforms of Urukagina," Gudea's Cylinder B and Statue B, and the Laws of Ur-Namma contain a similar theme: not to deliver the widow and the orphan to the powerful. The Praise Poem of Išme-Dagan and the late text, "The King of Justice," both recount the responsibility of the ruler to support the cause of the widow in

⁹⁴ Hurowitz, "Hammurabi," 531-532.

⁹⁵ Lambert, "King of Justice," 9.

⁹⁶ *Ibid.*, 9-10.

the courts. “The King of Justice” text deviates from the usual pattern in that the reference to the orphan has been replaced with a reference to—at least in translation—a physically disabled person. The Hymn to Nanše and the *Širnašub* to Utu attest to the gods caring for widows and orphans, a responsibility passed on to human rulers, as evidenced in the other inscriptions commemorating various rulers. The inscriptional evidence demonstrates similar presentations of human rulers and show that references to widows and orphans are bound up with proclamations of establishing justice, providing for the gods, protecting their people, and securing ample food and water supplies. While many see the repetition of this motif as proof that widows and orphans were protected, the recurrence of the theme may prove the opposite of care of these groups of people in society. Additionally, law collections prefaced by prologues or epilogues that profess care of widows and orphans have little or no individual laws protecting the widow and no law provisions protecting the orphan, arguably the most vulnerable member of the dyad, leaving one to wonder if this repeated concern is merely empty rhetoric in service to the king’s good reputation. Perhaps, if this ethic truly predominated in ancient kingdoms, there would no longer be a need to proclaim care of widows and orphans.

3.2 Theory of Biblical Law

The theory of biblical law parallels the theory of ancient Near Eastern law.⁹⁷ Several theories of biblical law have emerged within biblical studies which range from authoritative, operational law to scientific or non-legal treatises. For example, some argue that biblical laws represent anthologies.⁹⁸ Others appeal to the idea that biblical law collections serve a primarily religious purpose in that they “promote a religious agenda rather than to establish a full-fledged

⁹⁷ Wells, “What is Biblical Law?” 224.

⁹⁸ Berman, “History of Legal Theory,” 25.

legal system.”⁹⁹ Still others draw attention to an “internal” versus an “external” approach. An internal approach views the biblical text as a reliable historical witness and seeks “to train the student in legal doctrine, and to read authoritative legal texts – statutes and judgments – as practicing lawyers do.”¹⁰⁰ An external approach, on the other hand, from the viewpoint of critical legal studies, considers that an internal approach elides “the realities of politics and economic power.”¹⁰¹ A middle path between internal and external approaches, the “moderate external” view:

insists that we take seriously the reasoning found in our sources, notwithstanding its ideological functions, not least because their authors made choices as to how to communicate their messages. Those choices cast light on the values which its authors seek to propagate. And even though we may seek to view their work within an external framework, taking account of its rhetorical features and seeking to locate it historically, the starting point must be rigorous attention to what the sources themselves say.¹⁰²

Two primary categories obtain in the discussion of biblical law: that the law collections in the HB represent authoritative, operational law—or at least represent operational law—or that they represent scribal exercises that either describe authoritative law or stand as scientific lists: “The longstanding traditional view is that the legal material of the Pentateuch presents the law that was authoritative and in force in ancient Israel and Judah. This material is believed to have contained the rules by which the society and the legal system operated.”¹⁰³ Along the same lines, another theory of biblical law views the separate collections as rival bodies but not necessarily coherent systems of legislation.¹⁰⁴ (Deuteronomy figures prominently in this discussion since

⁹⁹ Wells, “What is Biblical Law?” 225-226.

¹⁰⁰ Bernard S. Jackson, “Revolution in Biblical Law: Some Reflections on the Role of Theory in Methodology,” *JSS* 50 (2005): 112-13.

¹⁰¹ Jackson, “Revolution,” 113-114.

¹⁰² *Ibid.*, 114. Still, Jackson concludes that “the field ought to be conceived more in terms of ‘social justice’ rather than ‘law.’”

¹⁰³ Wells, 226. Bruce Wells clearly outlines theories of biblical law. See Bruce Wells, “What is Biblical Law?” 223-43, esp. 226-230. Wells does note that few scholars still hold this view.

¹⁰⁴ *Ibid.*, 227.

many of the laws are clearly reworked versions of laws in the Covenant Code.) Three remaining perspectives hold that the biblical law collections in the HB are the result of scribal writings which include law collections as “theoretical treatises,” “legally descriptive treatises,” and non-legal treatises.”¹⁰⁵ Theoretical treatises were scribal “scientific or academic treatises” that primarily took the form of lists about “various areas of intellectual inquiry,” including lists of laws.¹⁰⁶ In the same category as theoretical treatises, proponents of biblical law collections as “legally descriptive treatises” argue that these scribal academic exercises “are fairly accurate descriptions of operative law,” serving a “descriptive” rather than “prescriptive” function.¹⁰⁷ The last category, “non-legal treatises” view law collections as “sapiential” texts that provided moral counsel.¹⁰⁸

Formulaic references to widows, orphans, aliens, and Levites occur only within the law collection in Deuteronomy. Even the non-formulaic references appear in highly ideologically charged statements about the character of YHWH and the expectations of covenant people. Rather than presenting law as operational, Deuteronomy redacts prior laws to create a vision of Israelite society—an independent society in an abundant land. The care of widows, orphans, aliens, and Levites as a positive humanitarian ethic presumes that their care was mandated by authoritative, operational law. While few in the area of biblical studies still hold that the law collections in the HB functioned as authoritative, operational law, there is a disconnect between this view and the subject of widows, orphans, aliens, and Levites.¹⁰⁹ Their protection is assumed

¹⁰⁵ Ibid., 228-230.

¹⁰⁶ Ibid., 228.

¹⁰⁷ Ibid., 229.

¹⁰⁸ Ibid., 230. Ultimately, Wells chooses “legally descriptive treatises” as the most likely explanation of biblical law collections. See, Wells, 242-43.

¹⁰⁹ Wells, “What is Biblical Law?” 226.

as a fact of Israelite society; however, this assertion occurs outside of the larger discussion of genre and ideological and rhetorical intent.

3.3 Deuteronomy and Royal Ideology

The Laws of Hammurabi provide a useful lens for viewing references to widows, orphans, and aliens in Deuteronomy. Like LH, Deuteronomy's treatment of widows, orphans, aliens, and Levites occurs within a pervasive abundance rhetoric. Hammurabi, the human ruler, and YHWH, Israel's divine ruler, are responsible for protecting the people, which includes providing sustenance, and both emphasize not mere sustenance but abundance. LH and Deuteronomy purport to protect groups of people: widows and orphans in LH and widows, orphans, aliens, and Levites in Deuteronomy. LH and Deuteronomy are also structurally similar. Like LH, the law collection in Deuteronomy is housed within a narrative frame—YHWH's bringing Israel out of Egypt. Twice the law collection is introduced (Deut 4 and 6), recounting YHWH's actions on behalf of Israel, and a list of blessings and curses follows the law provisions (Deut 28) much like the law collection in LH. Like LH, Deuteronomy also contains only one law pertaining to care for widows (Deut 24:17b). Most importantly, the leaders in both texts purport to safeguard vulnerable groups of people when in fact they co-opt them in the service of a larger ideological goal, namely the good reputation of the ruler. In the same way that Hammurabi conforms to Mesopotamian royal ideology by acting as a protector and provider of his people, so does YHWH protect and provide for the Israelites in Deuteronomy. YHWH is first the protector of Israel by liberating the Israelites from Egypt. Numerous instances in Deuteronomy relate how YHWH delivered the Israelites from Egypt and from their enemies. YHWH promised victory

over the Amorites, “The LORD your God who goes before you will fight for you like all which he for you in the land of Egypt before your eyes” (Deut 1:30).

YHWH’s deliverance of the Israelites from Egypt is mentioned five times in Deuteronomy 4. Moses affirms, “But *you* the LORD has taken and brought *you* from the iron furnace, from Egypt, to be for him a possession to this very day” (Deut 4:20). Moses attests to the extraordinary character of YHWH when he asks the rhetorical question, “Or has a god tried to enter to take for himself a nation from the midst of a nation by trials, by signs, and by wonders and by war and by a strong hand and by an outstretched arm, and by great terrors like all which the LORD your God did for you in Egypt before your eyes?” (Deut 4:34). He reiterates the promise to the ancestors:

And because he loved your fathers and he chose their descendants after them and brought you from Egypt by his presence and great power, to drive out before you nations greater and mightier than you; therefore, you shall guard his statutes and his commandments which I am commanding you to do for He is good to you and your children after you in order that you may order the days in the land that the LORD your God is giving to you in perpetuity (Deut 4:37-40).

And in Deuteronomy 4:45-46:

These are the testimonies and the statutes and the ordinances which Moses spoke to the children of Israel in their going out from Egypt on the other side of the Jordan in the valley opposite Beth Peor in the land of Sihon kind of the Amorites who dwelt in Heshbon whom Moses and the children of Israel struck down in their coming out of Egypt.

Chapter 4 ends by recounting all of the leaders the Israelites defeated and the lands they possessed as a result.

YHWH declares in Deut. 5:6, “I am the LORD your God who brought you from the land of Egypt, from the house of slavery.” For the same reason, Moses enjoins the Israelites to keep the Sabbath (Deut 5:15). When children ask about the meaning of the statutes and ordinances, parents narrate the national story:

We were slaves for Pharaoh in Egypt and the LORD brought us out from Egypt with a strong hand. And the LORD gave signs and wonders, great and evil against Egypt and against Pharaoh and against all of his house before our eyes. And he brought us from there so that he might bring us to give to us the land which he swore to our fathers. And the LORD commanded us to do all these statutes to fear the LORD our God for good for us all the days, to preserve us, as today (Deut 6:21-24).

YHWH promises to protect the Israelites from disease and to cast them on their enemies in their stead (Deut 7:15), and just before the start of the law collection, Moses enjoins the Israelites to remember YHWH's liberation from Egypt as motivation to keep the statutes and ordinances (Deut 11:3-4). Just as Hammurabi states he pastured his people in peace, YHWH offers the statutes and ordinances backed by his "strong hand" to protect the Israelites.

YHWH is a provider by bringing the Israelites "to a good land, a land of rivers of water, flowing streams, springs and underground waters [תְּהוֹמוֹת], welling up in valleys and mountains, a land of wheat and barley and vines and fig trees and pomegranates, a land of olive oil and honey" (Deut 8:7-8). "Olive oil" [זֵית שֶׁמֶן] is usually translated "olive trees;" but this translation overlooks that YHWH is bringing them to a land without the difficult labor involved in growing and processing olive oil, since olives must be processed to be edible. Again, in Deuteronomy 11:10-15, YHWH promises an easy, abundant existence:

For the land which you are entering to possess, it is not like the land of Egypt from which you went out which you sowed your seed and watered by foot like a vegetable garden. But the land which you are crossing over to possess is a land of mountains and valleys that drinks water by the rain of the heavens. A land which the LORD your god is seeking, the eyes of the LORD your god are always on it from the beginning of the year until after [the] year. And it will be if you surely guard my commandments which I am commanding you today, to love the LORD your god and to serve him in your whole heart and your whole being. And I will give the rain of your land in its season, early and later, and you will gather your grain, your wine, and your oil. And I will give grass in your field to your livestock and you will eat until you are filled.

YHWH as a provider necessarily overlaps with abundance rhetoric in Deuteronomy which this study will explore in detail in the next chapter. According to the text, YHWH brought the Israelites out of Egypt, sustained them in the desert, and promised to give them a good land with abundant food and water.

Like LH, references to widows and orphans occur as an abstract ideal of justice: He (YHWH) does justice [for the] widow and orphan (Deut 10:18). YHWH, through Moses, charges the Israelites to love the alien, “And you shall love the alien because you were aliens in the land of Egypt” (Deut 10:19), echoing YHWH’s protection as the one who brought the Israelites out of Egypt. Like LH, Deuteronomy contains no law provisions to protect orphans and only one law to protect a widow who is poor: “You shall not take in pledge a widow’s garment” (Deut 24:17b). Mesopotamian inscriptions and LH in particular, provide a useful lens for considering the ideological function of these references in Deuteronomy. As the cultural milieu in which the texts of the ancient Israelites arose, these references continue the royal ideology of the ruler as a just protector and provider.

While LH serves as a useful lens for scrutinizing the portrayal of widows, orphans, and aliens in Deuteronomy, important differences also exist between LH and Deuteronomy. First, Deuteronomy strictly curtails the power of the human ruler (Deut 17:14-20), transferring the royal ideology of a human ruler to YHWH. Hammurabi provides a law collection as proof of his own status as a just king; YHWH provides statutes and ordinances to follow in response to YHWH’s benevolence and to remain in a good land that provides abundance and ease. Whereas Hammurabi narrates only the good that he has accomplished, in Deuteronomy YHWH determines everything, good or bad. For example, although YHWH sustained the Israelites in the

desert, Moses narrates how YHWH first humbled the Israelites by letting them go hungry (Deut 8:3) and then brings them to a “good land” (8:7-10).

A final important difference between the two collections is the sheer number as well as location of references to widows, orphans, aliens, and Levites. Every highly stylized reference to widows and orphans appears *within* the law collection in Deuteronomy, conveying an abstract concept rather than real people. In spite of these differences, Deuteronomy, following the precedent set in the milieu in which the text arose, extends the trope by including aliens and Levites within the same abundance rhetoric and ideology to establish the reputation of YHWH as a good and just ruler. Like the Hymn to Nanše, and the *Širnašub* to Utu, the deity, not the human ruler, provides protection of the people, not a human ruler, and through motivation clauses within the law collection, the entire community becomes responsible for securing continued independence and abundance in the land. The next chapter explores in detail the stylized references to widows, orphans, aliens, and Levites in Deuteronomy set within abundance rhetoric that, in effect, creates a trope with a different function within the text.

CHAPTER 4

Introduction

The construction of widows, orphans, and aliens as powerless and poor is a composite picture that rests upon their presumed landlessness, their association with Levites disenfranchised through the process of cult centralization, and the idea of a greater humanitarian ethic within the book of Deuteronomy. However, key themes in Deuteronomy, namely the connection between food and covenant loyalty and the association of this group with Levites as acting cultic leaders, challenge the traditional construction of widows, orphans, and aliens, as well as Levites. This construct, built from texts that span the canon regardless of genre or date of composition, informs almost all treatments of widows, orphans, aliens, and Levites. While the traditional idea of Levites as disenfranchised, second-tier priests bolsters the conventional construction of widows, orphans, and aliens, assumptions about the socioeconomic status of this group in turn, inform the characterization of Levites, resulting in the conflation of Levites, widows, orphans, and aliens, not only as a singular, impoverished group but also with “the poor” in Deuteronomy.

A narrative-rhetorical approach coupled with insights from Disability Studies (DS) shows how this group operates within Deuteronomy’s rhetoric of abundance to secure the positive fruits of covenant loyalty for all Israel. Prominent themes in Deuteronomy in tandem with socio-symbolic references to food create an overriding rhetoric about abundance that hinges upon covenant loyalty. This chapter will show how insights from the area of food and foodways studies, which addresses food use and food supply, as well as the symbolic function of food in

the book of Deuteronomy, provide crucial insight into the understanding of—and rhetorical function of—Levites, widows, orphans, and aliens in Deuteronomy.¹

First, this chapter will present the formulaic and non-formulaic occurrences of references to widows, orphans, aliens, and Levites in Deuteronomy. This section will also consider significant omissions of widows, orphans, aliens, and Levites—if they were indeed poor—in texts where one might expect to find them in Deuteronomy. The formulaic texts will demonstrate a prominent theme central to the book of Deuteronomy. The non-formulaic texts function much like the prologue and epilogue in LH in that they contain facets of royal ideology, no longer the purview of the human king in Deuteronomy, but the responsibility of YHWH. Lastly, this chapter will bring insights from food and foodways studies in order to show that references to widows, orphans, aliens, and Levites in Deuteronomy reveal the book’s deep concern about food security, which results in an overriding abundance rhetoric that structures the book, the presentation of the deity, and the covenantal relationship.

¹ For studies of food and foodways in Greco-Roman society and the Mediterranean, see: Peter Garnsey, *Famine and Food Supply in the Graeco-Roman World: Responses to Risk and Crisis* (Cambridge: Cambridge University Press, 1988). Peter Garnsey, *Food and Society in Classical Antiquity*, Key Themes in Ancient History (Cambridge: Cambridge University Press, 1999). John Wilkins and Shaun Hill, *Food in the Ancient World*, Ancient Cultures (Malden, MA: Oxford: Blackwell, 2006). John Wilkins, F. D. Harvey, and Mike Dobson, *Food in Antiquity* (Exeter: University of Exeter Press, 1995). For studies of foodways in ancient Israel, see: Oded Borowski, *Daily Life in Biblical Times*, Society of Biblical Literature Archaeology and Biblical Studies 5 (Atlanta: Society of Biblical Literature, 2003). Athalya Brenner and Jan W. van Henten, “Our Menu and What Is Not on It: An Introduction,” *Semeia* 86 (1999): ix-xvi. Robert P. Carroll, “YHWH’s Sour Grapes: Images of Food and Drink in the Prophetic Discourses of the Hebrew Bible,” *Semeia* 86 (1999): 113-31. Frank S. Frick, “‘Oil from Flinty Rock’ (Deuteronomy 32:13) Olive Cultivation and Olive Oil Processing in the Hebrew bible: A Socio-Materialist Perspective,” *Semeia* 86 (1999): 3-17. Rolf P. Knierim, “Food, Land, and Justice,” in *The Task of Old Testament Theology: Substance, Method, and Cases* (Grand Rapids: Eerdmans, 1995), 225-43. Nathan MacDonald, “Food, Land and Memory” in *Deuteronomy and the Meaning of “Monotheism,”* Forshungen zum Alten Testament 2 (Tübingen: Mohr Siebeck, 2003): 134-39. Nathan MacDonald, *What Did The Ancient Israelites Eat? : Diet in Biblical Times* (Grand Rapids: Eerdmans, 2008). Nathan MacDonald, *Not Bread Alone: The Uses of Food in the Old Testament* (Oxford: Oxford University Press, 2008). Victor H. Matthews, “Treading the Winepress: Actual and Metaphorical Viticulture in the Ancient Near East,” *Semeia* 86 (1999): 19-32. Eleonore Schmitt, *Das Essen in Der Bible: Literaturethnologische Aspekte Des Alltäglichen*, Studien zur Kulturanthropologie 2 (Münster: Lit, 1994). Ken Stone, *Practicing Safer Texts: Food, Sex and Bible in Queer Perspective*, Queering Theology (London: T&T Clark, 2005).

4.1 The Texts

The texts in Deuteronomy which reference widows, orphans, aliens, and Levites, individually or in various combinations, fall into two primary categories: formulaic and non-formulaic texts. Every reference occurs within the law collection except for Deut. 10:17-19. One characteristic of nearly every occurrence of formulaic and non-formulaic reference within Deuteronomic Law is followed by a motivation clause. These motivation clauses become important for two reasons. First, motivation clauses for law precepts are addressed to the “you” in the text, not widows, orphans, aliens, and Levites who function as objects not subjects in the law collection. Second, these motivation clauses link formulaic references to widows, orphans, aliens, and Levites to larger deuteronomic themes connected to food security and obedience in order to remain in the land.

4.1.1 Motivation Clauses in Deuteronomy

While motivation clauses appear in many genres,² they are a distinctive feature of biblical law in contrast to ancient Near Eastern law in which they do not appear.³ These motivation clauses are categorized in multiple ways. One categorization identifies four types of motivation clauses: explanatory, ethical, religious, and historical.⁴ Another defines motive clauses in terms of God’s authority, history, fear of punishment, and a promise of well-being.⁵ In Deuteronomy, motivation clauses fall into several areas of communal life: religious, civil, humanitarian, or political.⁶ What is clear is that Deuteronomy makes a much greater rhetorical use of motivation

² Rifat Sonsino, *Motive Clauses in Hebrew Law: Biblical Forms and Near Eastern Parallels*, SBLDS 45 (Chico, CA: Scholars Press, 1980), 117.

³ Berend Gemser, “The Importance of Motivation Clauses in Old Testament Law,” *VTSup* 1 (1953): 62.

⁴ Gemser, “Importance of Motivation Clauses,” 55-56.

⁵ Sonsino, *Motive Clauses*, 109.

⁶ *Ibid.*, 93-95.

clauses than the law collection in Exodus. Only seventeen percent of laws in Exodus contain motivation clauses, while motivation clauses follow a full fifty to sixty percent of laws in Deuteronomy.⁷

Motivation clauses in the formulaic and non-formulaic texts consist of those introduced by *waw*, ו, a single conjunction, a combination of a conjunction with וְאִשֶּׁר, a preposition, or asyndetic motive clauses not introduced by any conjunction or preposition.⁸ Motive clauses in the formulaic and non-formulaic texts below follow a single conjunction, לְמַעַן (Deut 14:29; 16:3), כִּי (Deut 10:19; 16:15; 24:18), *waw* (Deut 16:12), a combination of עַל־כֵּן (Deut 24:18), and two asyndetic motive clauses urging the Israelites to remember that they were slaves in Egypt (Deut 24:22; 26:15). These motive clauses fall into the following categories: reverence for YHWH (Deut 10:19), to secure YHWH's blessing (14:29; 16:15; 26:15); remembrance of former slave status (14:29; 16:3; 24:18; 24:22).

The function of motivation clauses, like references to widows, orphans, aliens, and Levites, are assessed in positive ways. They are thought to show a law is just or provide justification or incentive to obey certain laws.⁹ Further, motive clauses play an important role in the construction of widows, orphans, aliens, and Levites as powerless and poor in that they are thought to provide protections to this group of people.¹⁰ However, these motivation clauses do not address the group they are supposed to benefit. They address the understood second person

⁷ Gemser, "Importance of Motivation Clauses," 51-52. The percentage varies. Sonsino states two different figures: 50 % and 45%. See Sonsino, *Motive Clauses*, 93 and 221, respectively.

⁸ Sonsino, *Motive Clauses*, 70

⁹ Sonsino, *Motive Clauses*, 66, 68. Gemser argues that motive clauses "disclose the truly democratic character of their [Israel's] laws." See Gemser, 63.

¹⁰¹⁰ Harold Bennett, *Injustice Made Legal: Deuteronomic Law and the Plight of Widows, Strangers, and Orphans in Israel*, The Bible and Its World (Grand Rapids: Eerdmans, 2002), 101. Gemser, "Importance of Motivation Clauses," 63. Walter J. Houston, *Contending for Justice: Ideologies and Theologies of Social Justice in the Old Testament*, (New York: T&T Clark, 2006), 179. Bruce V. Malchow, *Social Justice in the Hebrew Bible*, (Collegeville, MN: Liturgical Press, 1996), 305. Sonsino, *Motive Clauses*, 95. Christiana Van Houten, *The Alien in Israelite Law*, JSOTSup 107 (Sheffield: JSOT Press, 1991), 97, 169.

reference in the text, “you,” not “them.” Many of the motive clauses, especially in regard to the formulaic texts in Deuteronomy, promise “well-being” for those the laws address—if they follow the precepts.¹¹ These motivation clauses evidence that members of the greater Israelite society must be compelled to obey this legislation.¹² They “link prosperity to individual moral action” and “should inculcate proper notions about morality in people in ancient Israelite society.”¹³ Further, “The Israelites are promised divine blessing if they are generous to the alien, widow, and orphan.”¹⁴ The fact that the motivation clauses are addressed—perhaps, secondarily at best—to widows, orphans, aliens underscores their status as set apart from the rest of Israelite society as presented in Deuteronomy.

4.2 Formulaic References to Widows, Orphans and Aliens

Almost all formulaic references to widows, orphans, aliens, and Levites in Deuteronomy are tied to agricultural events in recognition of YHWH’s gift of the land. These texts, Deuteronomy 14:22-29, 16:9-15, 24:19-22, and 26:12-15 are thought to form the basis of a welfare program for poor and needy people within Israelite society. Set within the conceptual frame of tithing and the consumption of a sacral meal, these formulaic references serve an altogether different purpose than that of a food pantry or a welfare program. Rather, widows, orphans, aliens, and Levites are the means by which Israel remains within covenantal obedience.

4.2.1 Deuteronomy 14:28-29

The annual tithe in Deut. 14:22-27 does not name widows, orphans, and aliens; thus, the

¹¹ Sonsino, *Motive Clauses*, 115-116.

¹² Van Houten, *Alien in Israelite Law*, 96.

¹³ Bennett, *Injustice Made Legal*, 104-105.

¹⁴ Van Houten, *Alien in Israelite Law*, 168.

first formulaic reference to widows, orphans, and aliens occurs in Deut. 14:28-29 in relation to the third-year tithe:

מִקְצֵה שָׁלֹשׁ שָׁנִים תּוֹצִיא אֶת-כָּל-מַעֲשֶׂר תְּבוּאָתְךָ בַּשָּׁנָה הַהִוא וְהִנַּחְתָּ בְּשַׁעְרֶיךָ:
וּבֹא הַלֵּוִי כִּי אֵין-לוֹ חֶלֶק וְנַחֲלָה עִמָּךְ וְהַגֵּר וְהִיתָּוִם וְהָאֱלֻמִּנָּה אֲשֶׁר
בְּשַׁעְרֶיךָ וְאָכְלוּ וְשָׂבְעוּ לְמַעַן יְבָרְכְךָ יְהוָה אֱלֹהֶיךָ בְּכָל-מַעֲשֶׂה יָדְךָ אֲשֶׁר
תַּעֲשֶׂה

At the end of three years, you will bring out all the tithe of your produce in that year and rest it in your gates. And the Levite will come because he has no portion or inheritance with you and the alien, and the orphan, and the widow who are in your gates and they shall eat and be filled so that the LORD your God will bless you in the undertaking of your hand which you will do.

The description of the tithes in Deut. 14:22-27 and 28-29 share similar language and structure.

Both designate the tithe in totality: “all the yield of your seed” (14:1) and “all the tithe of your produce” (14:29). Both describe required actions followed by a motivation clause introduced by לְמַעַן. Both designate a particular location in which to consume tithed food, and both feature a form of the verb, יָצָא, in conjunction with food. In Deut. 14:22,

עֲשֹׂר תַעֲשֶׂר אֶת כָּל-תְּבוּאֹת זֶרְעֶךָ הַיֹּצֵא הַשָּׂדֶה שָׁנָה שָׁנָה

“You shall surely tithe all of the produce of your sowing, that which comes out of the field, each year,” mirrors Deut. 14:28:

מִקְצֵה שָׁלֹשׁ שָׁנִים תּוֹצִיא אֶת-כָּל-מַעֲשֶׂר תְּבוּאָתְךָ בַּשָּׁנָה הַהִוא וְהִנַּחְתָּ בְּשַׁעְרֶיךָ

“At the end of the third year, you shall bring out all of the tithe of your produce in that year and rest it in your gates.” These two clauses provide an escalation in the use of יָצָא, first as descriptive participle and then verbal action of the subjects (Israelites).

Each celebration also contains significant differences. The instructions for the annual tithe are much longer than the third-year tithe due to the difference in place and participants. The annual tithe celebration must take place in “the place” and be consumed by the Israelites, their

households, and the Levites with the caveat that perishable foods can be exchanged for money to purchase whatever the participants crave. The triennial tithe, on the other hand, consists of “produce” and is consumed “in your gates” by Levites, widows, orphans and aliens. There is no command to be joyful or consume what one craves.

In the third-year tithe, YHWH commands the Israelites to rest, נִיחָ, their tithe in the gates, in honor of YHWH’s promise to give rest, נִיחָ, to the Israelites from their enemies (cf. Deut 12:10). Unlike chapter 12, these two verses command the Levite and widows, orphans, and aliens to eat until they become full from the tithes in the gates, not “the place.” On the other hand, Deuteronomy 12 and 14:22-24 instruct the Israelites to eat their tithed food before the LORD in “the place,” and Deut. 14:26-27 goes to great lengths to provide a way for everyone to participate no matter the distance. Widows, orphans, aliens, and Levites, however, have access to tithed food in a forbidden location, and they are commanded to “eat and become full,” actions with negative connotations elsewhere in Deuteronomy.¹⁵ The text does not state that Levites, widows, orphans, and aliens are to eat in the gates in order to provide for the impoverished ones within the community. Rather, the motivation clause in 14:29, marked by לַמַּעַן, states “so that the LORD your God will bless you in all the work of your hand that you do.” The motivation clause addresses, not Levites, widows, orphans or aliens, but the “Israel” from whom widows, orphans and aliens are set apart, and promises continued abundance. In keeping with abundance rhetoric, the triennial tithe marks multiple years of abundant agricultural production, so much so, that ample food supplies exist after three years of cultivation to enable the population to celebrate an additional agricultural ritual.

¹⁵ Deut. 6:10-11; 8:10-11, 12-15; and 31:20.

Considering Deuteronomy's rhetoric about the land and food, one might envision a succulent meal provided for the poor as part of an altruistic feeding program, but the third-year tithe mentions only "produce." Like the yearly tithe, the third-year tithe presents as a single meal. According to the text, widows, orphans, aliens, and Levites were commanded to eat until they were full in one sitting. In Deuteronomy, ritual meals, except Passover, are presented as joyful, grandiose events, but what might the actual triennial meal have looked like? Were they offered raw agricultural products? Was a meal prepared and brought out to them? The details of these tithed meals are not explored as part of the argument that this tithing provided a welfare program for the less fortunate in Israelite society. This study contends that tithed food maintained its sacral purpose.

4.2.2 Deuteronomy 16:9-12, 13-15

The festivals of Weeks and Booths mark key agricultural events in the life of the community, and formulaic references to widows, orphans, and aliens which appear in both texts are also linked to the Levite. The Israelites are commanded to hold the festival of weeks in Deut. 16:9-12 and admonished to remember that they were slaves in Egypt, remembrance that serves as the motivation for observing YHWH's statutes.

שְׁבַע שָׁבָעַת תִּסְפֹּר לָךְ מִהַחֵל חֶרְמֶשׁ בְּקֹמָה תַּחֵל לִסְפֹּר שְׁבַע שָׁבָעַת וְעָשִׂיתָ
חַג שְׁבָעוֹת לַיהוָה אֱלֹהֶיךָ מִסֹּת נֹדֶבֶת יָדְךָ אֲשֶׁר תֵּתֵן כְּאֲשֶׁר יְבָרַךְךָ יְהוָה אֱלֹהֶיךָ:
וְשָׁמַחְתָּ לִפְנֵי יְהוָה אֱלֹהֶיךָ אַתָּה וּבִנְךָ וּבִתְּךָ וְעַבְדְּךָ וַאֲמָתְךָ וְהַלֹּוֹי אֲשֶׁר בְּשַׁעְרֶיךָ
וְהַגֵּר וְהַיִּתּוֹם וְהָאֵלְמָנָה אֲשֶׁר בְּקִרְבְּךָ בְּמָקוֹם אֲשֶׁר יִבְחַר יְהוָה אֱלֹהֶיךָ
לֵשְׁכֹן שְׁמוֹ שָׁם: וְזָכַרְתָּ כִּי־עֶבֶד הָיִיתָ בְּמִצְרַיִם וְשָׁמַרְתָּ וְעָשִׂיתָ
אֶת־הַחֻקִּים הָאֵלֶּה:

Seven weeks you shall count for yourself from the beginning of the sickle to the standing grain you shall begin to count seven weeks. And you shall keep the festival of weeks to

the LORD your God with a measure of the freewill offering of your hand which you will give just as the LORD your God has blessed you. And you shall rejoice before the LORD your God, you, and your son, and your daughter, and your servant, and your maidservant, and the Levite who is in your gates and the alien, the orphan, and the widow who are in your midst in “the place which the LORD your God will choose to establish his name there” and you shall remember that you were a slave in Egypt; therefore, you will keep and do these statutes.

The festival of Booths in Deut. 16:13-15 looks forward to an idyllic time when the Israelites will be happy and secure in an abundant land.

חג הסוכות תעשה לך שבועת ימים באספך מגרנך ומיקבך: ושמחת בחגך
אתה ובנך ובתך ועבדך ואמתך והלוי והגר והיתום והאלמנה אשר
בשעריך: שבועת ימים תחג ליהוה אלהיך במקום שבועת ימים תחג
ליהוה אלהיך במקום אשר יבחר יהוה כי יברכך יהוה אלהיך בכל
תבואתך ובכל מעשה ידיך והיית אך שמח:

The festival of Booths you will do for yourselves seven days when you gather from your threshing floor and from your wine vat. And you will rejoice in your festival, you and your son, and your daughter, and your servant and your maidservant, and the Levite, and the alien, and the orphan, and the widow who are in your gates. Seven days you will celebrate to the LORD your God in the place which the LORD will choose, for the LORD your God will bless you in all your produce and in all the work of your hands. And you will certainly be joyful.

Here, the text lists particular foods: grain and wine. The term, יִקֵּב, appears here rather than כָּרֵם, referring to the finished product of the grape harvest.

It is in the list of participants that a dominant assumption about the social status of widows, orphans, and aliens resides. They are named last in what is supposed to be a hierarchical list of household members that begins with parents, children, and slaves. Yet, their formulaic use elsewhere provides another way of thinking about the status and role of widows, orphans, and aliens. Their association with the Levite, who serves as a cultic functionary throughout Deuteronomy, combined with the access that this group has to tithed food in forbidden locations changes the status and role of widows, orphans, and aliens to the level of cultic participants. In

this way, they along with the Levite become a means to an end; they are named in the list of participants because their participation is required in order to fulfill correct festival observance. Celebration and inclusion of the Levite and widows, orphans, and aliens are characteristic of the festivals of Weeks and Booths but not as impoverished, dependent household members. This separation from the wider Israelite population may seem like an elevation in social status but Deuteronomy's supposed humane ethic serves to further separate and marginalize them.

4.2.3 Deuteronomy 24:19-22

Deuteronomy 24:19-22 appears at first to be the exception to the premise of this study, for it looks like a food provision for widows, orphans, and aliens. However, access to another person's land is not the sole privilege of widows, orphans, and aliens in Deuteronomy. Within the law collection, Deuteronomy 23:24-25 explains that anyone in Israel has access to land apart from their own.

כִּי תָבֹא בְכֶרֶם רֵעֶךָ וְאָכַלְתָּ עֲנָבִים כֹּנֶפֶשׁךָ שְׂבַעַךָ וְאֶל-כְּלִיךָ לֹא תִתֵּן כִּי
תָבֹא בְקִמַּת רֵעֶךָ וְקִטְפַת מְלִילַת בִּידֶךָ וְחֶרְמֶשׁ לֹא תִנִּיף עַל קִמַּת רֵעֶךָ

When you enter your neighbor's vineyard and you eat grapes to the fullness of your נפש, then you shall not put into your container. When you enter your neighbor's standing grain and you pluck ears of grain in your hand, you shall not swing a sickle over the standing grain of your neighbor.

Deuteronomy 24:19-22 is explicitly tied to the context of deliverance from Egypt. Verses 19 and 22 exhort, "Remember that you were a slave in Egypt; therefore, I command you to do this thing." The theme of remembering provides a contrast to v. 19:

כִּי תִקְצֹר קִצְרֶךָ בְּשָׂדֶךָ וְשָׂכַחְתָּ עֹמֶר בְּשָׂדֶה לֹא תָשׁוּב לְקַחְתּוֹ לְגֵר לִיתּוֹם
וְלֹאֲלֻמָּנָה יִהְיֶה לְמַעַן יְבָרְכְךָ יְהוָה אֱלֹהֶיךָ בְּכָל מַעֲשֵׂה יָדֶיךָ

When you harvest your harvest in your field and you *forget* a measure of grain, do not return to take it, to the alien, to the orphan, and to the widow it will be, so that the LORD your God will bless you in all the undertaking of your hands.

The only motivation clause in this passage occurs here and like 14:29, the text states, “so that the LORD your God will bless you.”

While Deuteronomy 24:19-22 alludes to the tithed foods in 12:7 to be eaten only in the place, Deuteronomy 24:19-22 remains nonspecific. It does not involve tithing, references to the place versus in your gates, eating, or rejoicing; however, the motivation remains the same. Not harvesting every single grain, dislodging every olive, and picking every grape allude to prosperity in the land. These are not the same people who experienced hardship in Egypt, but a people ransomed by YHWH and given a land flowing with milk and honey. Leaving something in the field suggests blessing by “the LORD your God” comfort, plenty, and rest. Here, the use of belonging “to the alien, to the orphan, and to the widow” echoes Deut. 26:12-13 and the objectified, ritual function that leaving something for (in 26 “giving to”) widows, orphans, and aliens performs. The generic, thrice repeated phrase, “It belongs to the alien, to the orphan, and to the widow” in light of the text’s stated motivation, framed by the third year tithe and its ritual culmination in Deut. 26, points to what consumption by widows, orphans, and aliens signifies for all of Israel.

4.2.4 Deuteronomy 26:12-15

The final formulaic reference occurs in Deuteronomy 26:12-15, following the small credo and the offering of the first fruits. Deuteronomy 26:12-13 states:

כִּי תִכְלֶה לַעֲשֹׂר אֶת־כָּל־מַעֲשֵׂר תְּבוּאָתְךָ בַּשָּׁנָה הַשְּׁלִישִׁת שָׁנַת הַמַּעֲשֵׂר וְנָתַתָּה לַלְוִי
 לַגֵּר לַיְתוּם וְאֶלְנָה וְאָכְלוּ בְשַׁעְרֶיךָ וְשָׂבְעוּ: וְאָמַרְתָּ לִפְנֵי יְהוָה אֱלֹהֶיךָ בְּעֶרְתִּי הַקֹּדֶשׁ
 מִן־הַבַּיִת וְגַם נָתַתִּיו לַלְוִי וְלַגֵּר לַיְתוּם וְלָאֵלְמָנָה כָּכָל־מִצְוַךְ אֲשֶׁר צִוִּיתִנִּי
 לֹא־עָבַרְתִּי מִמִּצְוֹתֶיךָ וְלֹא שָׁכַחְתִּי:

When you have finished tithing all of the tithe of your produce in the third year, the year of the tithe, and you have given to the Levite, to the alien, to the orphan, and to the widow, they shall eat in your gates and they shall be full, *then you shall say before the LORD your God*, “I have removed the holy thing from the house and also I have given it to the Levite, to the alien, to the orphan, and to the widow like your entire commandment which you commanded me. I have not transgressed from your commandments and I have not *forgotten*.”

Giving the holy portion, the only occurrence of this particular from of קֹדֶשׁ in Deuteronomy, to Levites, widows, orphans, and aliens becomes a metonymic equivalent to obeying God’s entire commandment. It is here in this pleading speech of our now first-person speaker that Deuteronomy most reveals its deep anxiety about food. The speaker goes on to recount how his handling of the sacred portion fulfills God’s commandment: “I have not eaten from it in my affliction; I have not removed from it in uncleanness; I have not given from it to the dead; I have obeyed the voice of the LORD my God; I have done all which you have commanded me” (Deut 26:14). The speaker continues, “Look down from your holy habitation, from the heavens, and bless your people, Israel, and the land which you gave to us just as you swore to our ancestors, a land flowing with milk and honey” (Deut 26:15).

4.2.5 Summary of Formulaic References

All of the formulaic references are highly narrativel. The formulaic references to widows, orphans, and aliens, are tied to the land and ritual consumption as a sign of faithful obedience to YHWH's entire commandment. Single meals during key points in the agricultural calendar would not have provided a consistent welfare program. This sacred meal eaten by a particular group of people in an otherwise forbidden location is a symbolic meal, a ritual that occurs once every three years to ensure continued blessing by YHWH. Widows, orphans, and aliens engage in ritual consumption as a means to an end; they are the means by which everyone else secures YHWH's continued blessing and, more significantly, fulfills the entire YHWH's entire commandment. Widows, orphans, and aliens become part of a cultic ritual, and giving the holy thing to Levites and widows, orphans, and aliens becomes a metonymic reference to obeying all of YHWH's commandments.

4.3 Non-Formulaic References to Widows, Orphans, and Aliens

This study would not be complete without recognition and exploration of the non-formulaic references to widows, orphans, aliens, and Levites in Deuteronomy. Deuteronomy contains three non-formulaic references to one or more members of the formulaic grouping: Deuteronomy 10:17-19, 24:17, and 26:11. The non-formulaic references remain important, especially Deut. 10:17-19, as they are considered part of the proof of Deuteronomy's humanitarian ethic. This section seeks to problematize the notion of YHWH's love of the alien, as well as note the important connections between the non-formulaic references and important deuteronomic themes and the Israelite national story.

4.3.1 Deuteronomy 10:17-19

The first non-formulaic reference to widows, orphans, and aliens in Deut. 10 looks like the basis of a social justice program, except for three features of the text: the trope of justice for widows and orphans, language of love as covenantal obedience, and the giving of food and clothing.

כִּי יְהוָה אֱלֹהֵיכֶם הוּא אֱלֹהֵי הָאֱלֹהִים וְאֵדֹנֵי הָאָדָמִים הָאֵל הַגָּדֹל הַגִּבֹּר
וְהַנּוֹרָא אֲשֶׁר לֹא־יִשָּׂא פָנִים וְלֹא יִקַּח שֹׁחַד: עֹשֶׂה מִשְׁפָּט יְתוֹם וְאַלְמָנָה
וְאֹהֵב גֵּר לֶחֶם לֹחֵם וְשִׂמְלָה:
אֲהַבְתֶּם אֶת־הַגֵּר כִּי־גֵרִים הָיִיתֶם בְּאֶרֶץ מִצְרַיִם

For the Lord Your God is the God of Gods and the Lord of Lords, the great and mighty God, the feared one who is not partial and does not take a bribe, the one who does an orphan's and widow's justice and loves an alien, giving him food and clothing.

First, YHWH's character and role are the subjects of this text, not widows, orphans, and aliens who are the objects of YHWH's actions as a just king. Widows, orphans, and aliens act as the literary foil to YHWH's character and actions, and any actions on their behalf serve as proof of YHWH's character, since Deuteronomy's vision of Israelite society divests the human monarch of this role (cf. Deut 17:14-20). Like the stele that stood as a testament to Hammurabi's successful reign, the trope, "doing justice for orphan and widow," is equivalent to "acting as a good and just king" and establishes YHWH's superlative character. Deuteronomy witnesses to YHWH's reputation as the God who deserves covenantal obedience. Here, the phrase "who is not partial and does not take a bribe" occurs in one other instance, Deuteronomy 16:18-20. YHWH manifests what is required of the community in Deut. 16:18-20. In appointing judges and officials, the entire community can follow the instruction not to divert justice or show partiality [recognize or regard faces] since a bribe "blinds the eyes" and subverts, סָלַף—the only

occurrence of this verb in Deuteronomy—“righteous matters/matters of righteousness” (Deut 16:19). The Israelites are then instructed in a decided shift in Hebrew syntax, “Righteousness, righteousness you shall pursue so that you may live and take possession of the land the LORD your God is giving to you” (Deut 16:20). YHWH is the judge *par excellence*.

This non-formulaic reference is set within a description of YHWH in Deut. 10:17-18. Language about the character of YHWH in Deut. 10:17-18 and 21-22 encloses the command to love the alien (v. 19) and fear YHWH (v. 20). The description of YHWH expressing “love” for the alien and commanding Israelites to do the same is striking because love, אהב, both describes YHWH’s love for Israel’s ancestors, and love is what is commanded of the Israelites in response to YHWH’s steadfast love or חסד. This concept of love, אהב, is both emotional and political. Deuteronomy shows a development of אהב as not only parental or marital love but the love of a vassal for her or his suzerain, a love characterized by loyalty and obedience.¹⁶ While אהב may have developed a related meaning—that of covenant loyalty—it also retains its emotional character, a necessary corrective to the idea that love in Deuteronomy is devoid of affect or emotion.¹⁷ Thus, covenant love is not merely loyal and obedient behavior toward YHWH in Deuteronomy. In Deuteronomy, YHWH expresses “steadfast love” for the ancestors which results in covenant loyalty to the present generation, and Israel is commanded to love YHWH and the benefits bestowed by YHWH are for those who love him. Love (אהב) carries valences of affection and covenantal obligation.

YHWH shows steadfast love, חסד, (Deut 5:10; 7:9; 7:12), and the Israelites are enjoined to love, אהב, YHWH (Deut 5:10b; 6:5; 7:9; 10:12; 11:1, 13, 22). YHWH as the subject of אהב

¹⁶ William L. Moran, “Ancient Near Eastern Background of the Love of God in Deuteronomy,” *CBQ* 25 (1963), 77-87.

¹⁷ Bill T. Arnold, “The Love-Fear Antinomy in Deuteronomy 5-11,” *VT* 61 (2011): 551-69.

occurs in three instances in Deuteronomy (Deut 4:37; 7:12-13; 10:15), and all are tied to YHWH's loyalty to Israel's ancestors. In Deut. 4:37, YHWH's love for the ancestors, who lived before the audience this text address, explains YHWH's present action: "Because [YHWH] loved your ancestors and chose their descendants after them, he brought you by his presence and great power from Egypt." Again in Deut. 7:12-13, YHWH will "love" the present generation because of YHWH's past covenant with and steadfast love for the ancestors. Lastly in Deut. 10:15, YHWH again loved Israel's ancestors: "Only with your ancestors did the LORD desire to love them and chose their descendants after them." In Deut. 10:17-18, YHWH expresses the same "love" for the alien as for Israel's ancestors.

Love is also the obligation of the ordinary Israelite in response to YHWH's steadfast love. The Israelites are commanded to also "love" the alien (Deut 10:19). In this text, YHWH expresses the same regard for the alien as for Israel's ancestors. The love that YHWH demonstrates toward the alien is the same response required of Israelites to YHWH's steadfast love. Further, Israelites are commanded to love the alien with the same love shown to YHWH. Love for the alien is affective, and is combined with a sense of obligation and loyalty.

Within this context, the trope that YHWH gives the alien food and clothing requires a reassessment. The phrase "food and clothing," *לֶחֶם וְשָׂמְלָה*, mirrors YHWH's provision of food and clothing for the Israelites in the wilderness (Deut 8:4, 9); Their clothes, *שָׂמְלָה*, did not wear out (Deut 8:4) and, further, YHWH was bringing them to a land "where you may eat bread without scarcity" (Deut 8:9). Aliens, whom the Israelites are to love, are given the same provisions afforded the Israelites by YHWH. A text thought to establish a social welfare program is in fact a text wrought with love, covenantal obligation, and provision.

4.3.2 Deuteronomy 24:17-18

This is arguably the one passage in Deuteronomy that refers to a poor widow. Although its form is apodictic, this singular law precept functions much like the individual law provisions in ancient Near Eastern law collections discussed earlier:

לֹא תִטֵּשׁ מִשְׁפַּט גֵּר יְתוֹם וְלֹא תִחַבֵּל בְּגֵד אִלְמָנָה
וְזָכַרְתָּ כִּי עֶבֶד הָיִיתָ בְּמִצְרַיִם וַיִּפְדֶּךָ יְהוָה אֱלֹהֶיךָ מִשָּׁם
עַל־כֵּן אֲנִכִּי מֻצָּנָה לַעֲשׂוֹת אֶת־הַדָּבָר הַזֶּה:

You shall not overturn justice of an alien [or] an orphan and you shall not take a widow's garment in pledge. You shall remember for you were a *slave* in Egypt and the LORD your God ransomed you from there; therefore, I am commanding you to do this thing.

The verbal form for “taking in pledge” חָבַל occurs only two times in Deuteronomy, and both appear in Deut. 24: not taking a millstone in pledge (Deut 24: 6) and not taking a widow's garment in pledge (24:17b). Further, “pledge” language appears alongside other economic terminology in Deut. 24. Deut. 24:10 features the only occurrence of “loan” מִשְׁאָה, in Deuteronomy followed by different language for “pledge” עֵבֹוֹט (Deut 24:10, 12, 13), and Deut. 24:14 commands the daily payment of “wages” שְׂכָרִי for “poor and needy” וְאֶבְיֹוֹן laborers. While Deut. 24:17b may refer to the treatment of poor widows in Israelite society, Deut. 24:17 does not warrant extending a poor widow's poverty to orphans and aliens nor equating the idea of justice solely with economic justice. Deuteronomy 24 already attests to the existence of separate language in Deuteronomy for poor people in Israelite society. To argue that all widows, orphans, and aliens are poor based upon this text would require equating the command to “not overturn justice” מִשְׁפַּט לֹא תִטֵּשׁ with “not taking in pledge” חָבַל. Here, as in Deut. 15, one would expect Levites, widows, orphans, and aliens to be named among the poor if economic status was their overriding characteristic as a group. The command not to “overturn justice” occurs elsewhere in the Deuteronomistic law collection to refer to the population of Israel as a whole in

Deut. 16:19 in the context of appointing judges and officials to make judicial decisions, and roughly half of Deut. 24 does not concern economics at all. Deuteronomy 24:1-5, 7-9, 16, 18-22 address marriage, divorce, leprosy, who is culpable in crimes involving death, and agriculture. Judging fairly, while it may encompass economic situations, cannot be reduced to them.

4.3.3 Deuteronomy 26:1-11

Deuteronomy 26:1-11 consists of a ritual offering of the first fruits of the land. This ritual involves bringing the first fruits to the place and to the “priest who will be in those days” (Deut 26:3)—a designation that allows for anyone serving in the priestly role much like “the place which the LORD your God will choose to establish his name there” (Deut 26:2) does not designate a singular, named location. In Deut. 26: 11, the “you” addressed in the text is then commanded:

וְשִׂמְחָתָּ בְּכָל־הַטּוֹב אֲשֶׁר נָתַן־לְךָ יְהוָה אֱלֹהֶיךָ וּלְבֵיתְךָ אַתָּה
וְהַלְוִי וְהַגֵּר אֲשֶׁר בְּקִרְבְּךָ

And you shall rejoice in all the good that the LORD your God has given to you and to your house, you and the Levite and the alien who is in your midst.

This non-formulaic reference, although it only includes Levites and alien, looks similar to the formulaic references included in agricultural feasts where everyone is commanded to rejoice. It is inexplicable as to why the widow and the orphan are omitted from this text in Deuteronomy—a text that shares many prominent themes in common with the formulaic texts. This reference does, however, follow the Small Credo in Deut. 26:4-10, another text which contains references to prominent themes in Deuteronomy: Israel living as an alien, the LORD bringing [אֲנִי] them out of Egypt to a land “flowing with milk and honey.

וְעַתָּה הִנֵּה הֵבֵאתִי אֶת־רֵאשִׁית פְּרֵי הָאֲדָמָה אֲשֶׁר־נָתַתָּה לִּי
יְהוָה וְהִנַּחְתּוּ לִפְנֵי יְהוָה אֱלֹהֶיךָ וְהִשְׁתַּחֲוִיתָ לִפְנֵי יְהוָה
אֱלֹהֶיךָ

“And, now, look! I am bringing the first of the fruit of the ground which the LORD gave to me.” And you shall rest it before the LORD your God and bow down before the LORD your God.

The celebrant, in turn, brings [בוא] the first fruit of the ground to YHWH and “rests” it before YHWH:

The Small Credo in Deut. 26:5-10 is typically translated, “My ancestor was a wandering Aramean.” However, the Hebrew root for this masculine singular participle which modifies “ancestor” is אבד, a root echoed throughout Deuteronomy with the valences, “perishing,” “destroying,” or “being destroyed.”¹⁸ Thus, the worshipper declares, “My ancestor was a perishing Aramean,” or “My ancestor was a *starving* Aramean.”¹⁹ In contrast, Deuteronomy articulates a new, flourishing national story. Tithing the first fruits expresses trust in continued food security. The third-year tithe joins the formulaic trope and themes of eating and being full and remembering by “not forgetting” in the culmination of the law collection.

4.3.4 Deuteronomy 27:19

The final non-formulaic reference to widows, orphans, and aliens occurs in Deut. 27:19:

אָרוּר מִטָּה מְשַׁפֵּט גֵּר־יְתוֹם וְאַלְמָנָה וְאָמַר כָּל־הָעָם אָמֵן:

Cursed be the one who turns justice of the alien-orphan and widow. And all the people shall say, “Amen.”

¹⁸ Deut. 4:26; 7:20, 24; 8:19-20; 9:3; 11:4, 17; 12:2-3; 28:20, 22, 51, 63; and 30:18.

¹⁹ J. G. Janzen as quoted in Altmann, “Feast, Famine and History,” 561.

The verse contains references to widows, orphans and aliens; however, the reference differs syntactically from the formulaic occurrences where the members of the triad are joined by a *vav*, and the Levite is not included.

4.4 Significant Omissions

If widows, orphans, aliens, and Levites were truly impoverished, then one would expect to find references to them among texts that specifically address poverty (Deut 15:1-10), but they are conspicuously absent. Their absence from this text indicates that this grouping serves a different purpose in Deuteronomy that to designate another group of “the poor.” They are also excluded from the Passover (Deut 16:1-8), a key text that establishes Israelite identity and their national narrative.

4.4.1 Deuteronomy 14:22-27

This text only mentions the Levite, thus deviating from the formulaic references to widows, orphans, aliens, and Levites. Deuteronomy 14:22-27 mirrors language in Deut. 12, connecting correct worship of YHWH to food consumption. This repetition of key terms and themes from Deut. 12 establishes the context in which to understand references to food and the Levite and by association, widows, orphans, and aliens. Deuteronomy 12 contains three references to tithes followed by three lists of participants and four warnings. In Deut. 12, correct worship of YHWH (Deut 12:1-4) is immediately tied to the licit consumption of food as offering in “the place” (Deut 12:5-7).²⁰

²⁰ The text situates the Israelites geographically and narratively in land, history, and covenant. The text opens with a detailed description locating the Israelites in a specific place in their history and instructs them to travel to another specific place (Deut 1:1-5, 7). The concept of “place” functions in Deuteronomy in several different

Meat is presented as something to be had in abundance. For example: “Only in all the craving of your נפש, you shall slaughter and eat meat according to the blessing of the LORD your God, which he has given to you in all your gates” (Deut 12:15) and “When...you say ‘I am going to eat some meat,’ because your נפש craves eating meat, in all the craving of your נפש, you may eat meat” (Deut 12:20). Deuteronomy 12 blurs the distinction between ritual and mundane slaughter by presenting the killing and consumption of animals as something determined by desire and readily and abundantly available. This ample supply of animals for consumption contradicts evidence of the Israelite diet from archaeology and paleopathology.²¹ In Iron I Israel, for example, most animals were likely kept for their secondary products, like wool and milk, while the use of animals for meat consumption may have increased with greater wealth during the monarchy.²² Much like Deut. 12:5-7 and 11-12, Deut. 14:22-23 commands:

עֲשֵׂה תַעֲשֶׂה אֶת כָּל־תְּבוּאֹת זֶרְעֶךָ הַיֵּצֵא הַשָּׂדֶה שָׁנָה שָׁנָה וְאָכַלְתָּ לִפְנֵי יְהוָה
 אֱלֹהֶיךָ בַּמָּקוֹם אֲשֶׁר־יִבְחַר לְשָׁכֵן שָׁמוֹ שֵׁם מַעֲשֶׂה דִגְנוֹךְ תִּירְשֶׁךָ וַיִּצְהָרְךָ
 וּבִכְרֹת בְּקָרְךָ וּצְאֲנֶךָ לְמַעַן תִּלְמַד לִירְאָה אֶת־יְהוָה אֱלֹהֶיךָ כָּל־הַיָּמִים:

You shall surely tithe all the produce of your sowing, which comes out of the field year by year. And you shall eat before the LORD your God in “the place that he will choose to establish his name there,” the tithe of your grain, your wine, and your olive oil, and the firstlings of your herd and your flock so that you will learn to fear the LORD your God all of the days (14:22-23).

ways: the safe route through the wilderness provided by Yahweh (Deut 1:31, 33), the land to which Yahweh has brought them (e.g. Deut 9:7; 11:5, 24), and the place to worship Yahweh (Deut 12: 5, 11, 13, 18, 21, 26) distinct from the place where other gods are worshipped (12:2, 3).

²¹ MacDonald, *What Did the Ancient Israelites Eat?*, 71. In *What Did the Ancient Israelites Eat?*, Nathan MacDonald warns that the ancient Israelite diet is complex and varies according to location, climate, distribution, and time period; therefore, he draws careful conclusions from available evidence. In the case of paleopathology, for example, the available evidence can be considered a statistically insignificant sample. Still, sixty persons’ remains found in Jerusalem exist from the seventh century B.C.E. and remain a valuable source of evidence for food studies and ancient Israel. While this study does not consider Deuteronomy’s date of composition or redaction in relation to its rhetorical structure, MacDonald’s conclusions are important for establishing what we both consider rhetorical statements about abundance in biblical literature.

²² Ibid., 71, 75.

Texts that reference widows, orphans, and aliens are rife with agricultural language that intertwines sustenance and covenant obligation. This language alludes both to YHWH's promise to the ancestors and their descendants, זרע, and YHWH as the one who brought out, יצא, Israel from Egypt and slavery: The Israelites are to tithe the produce of their sowing, זרע, which comes out, יצא, of the field. These two verses command that Israelites tithe and eat, so that they learn to fear YHWH, the motivation clause for giving a tenth in a particular place. Deuteronomy uses older, poetic terminology rather than quotidian language for grain, wine, and oil, further emphasizing its rhetorically charged presentation of food.²³

Deuteronomy 14:24-27, which alludes to 12:21, states:

וְכִי־יִרְבֶּה מִמֶּךָ הַדֶּרֶךְ כִּי לֹא תוּכַל שְׂאתוֹ כִּי־יִרְחַק מִמֶּךָ הַמָּקוֹם אֲשֶׁר יִבְחַר
יְהוָה אֱלֹהֶיךָ לָשׂוּם שְׁמוֹ שָׁם כִּי יְבָרְכֶךָ יְהוָה אֱלֹהֶיךָ וְנָתַתָּה בַּכֶּסֶף וְצִרְתָּ הַכֶּסֶף
בְּיָדְךָ וְהִלַּכְתָּ אֶל־הַמָּקוֹם אֲשֶׁר יִבְחַר יְהוָה אֱלֹהֶיךָ בּוֹ וְנָתַתָּה הַכֶּסֶף בְּכָל
אֲשֶׁר־תִּאֲוֶה נַפְשְׁךָ בַּבָּקָר וּבַצֹּאן וּבַיִּין וּבַשֵּׂכֶר וּבְכָל אֲשֶׁר תִּשְׁאֲלֶךָ נַפְשְׁךָ
וְאָכַלְתָּ שָׁם לִפְנֵי יְהוָה אֱלֹהֶיךָ וְשִׂמַּחְתָּ אֹתָהּ וּבִיתְךָ: לֹא תַעֲזֹבֶנּוּ כִּי אֵין
לּוֹ חֶלֶק וְנַחֲלָה עִמָּךְ

But if the way is too far from you such that you are not able to bear it because “the place that the LORD your God will choose to establish his name there” is too far from you when the LORD your God blesses you, then you shall turn it into money and gather the money in your hand and you will go to the place that the LORD your God [who] is in it will choose and you will turn the money into all that your נפש craves—into cattle and sheep and wine and beer and all that your נפש asks for—then you shall eat there before the LORD your God, and be filled, you and your household. And the Levite who is in your gates *you shall not abandon him* because he has no portion or inheritance with you.

Since tithes are only to be eaten at “the place,” Deuteronomy 14:24-26 provides a way for everyone to participate no matter the distance to a central site by turning tithed food which would spoil into money. The participants’ names in the celebration of the annual tithe are “you and your household” and the Levite. Again, as in 12:17-19, instruction not to abandon the Levite is

²³ MacDonald, *What Did the Ancient Israelites Eat?*, 4.

situated within the context of tithing (14:26) and underscored by the presence of an energetic nun in the second person plural imperfect conjugation of עִזְב. This direct connection to Deut. 12 situates commandments about the Levite within the larger covenantal structure of Deuteronomy. In Deuteronomy 12, the Israelites are warned three times to “guard themselves” with the formula, הִשָּׁמֶר לָךְ, (Deut 12: 13, 19, 30), a formula that occurs earlier in Deuteronomy, and once to “guard and obey,” וְשָׁמַר וְשָׁמַעַתָּה, (Deut 12:28).

4.4.2 Deuteronomy 15:1-10

If widows, orphans, aliens, and Levites were the poor and unfortunate members of Israelite society, the primary place in Deuteronomy one would expect them to appear is Deuteronomy 15:1-11, dealing with the remission of debts and people in need, and, yet, this is the one place where they are conspicuously absent and not named. The language for those eligible for remission of debts is non-specific; any member of Israelite society is eligible, as seen in the language: “neighbor” רֵעֵ and “brother” אָח. For example, in Deut. 15:2, states of the owner of a loan:

לֹא-יִגָּשׁ אֶת-רֵעֵהוּ וְאֶת-אָחִיו

He shall not exact it of his neighbor and his brother.

In keeping with abundance rhetoric, Deuteronomy 15:4 states:

אָפֶס כִּי לֹא יִהְיֶה-בָּךְ אֶבְיֹן כִּי-בָרַךְ יְבָרְכֶךָ יְהוָה בָּאָרֶץ
אֲשֶׁר יְהוָה אֱלֹהֶיךָ נֹתֵן-לָךְ נַחֲלָה לְרִשְׁתָּהּ:

A ceasing! For there shall be no poor [אֶבְיֹן] among you because the LORD shall surely bless the land which the LORD your god is giving to you, an inheritance to possess it.

The only one among the community not eligible for a remission of debt is a “foreigner,” נָכְרִי.

4.4.3 Deuteronomy 16:1-8

While Deuteronomy 16:1-15 makes use of the same formulaic treatment of widows, orphans, and aliens, it also includes one of two of the most significant omissions. Unlike the festivals, חג, of Weeks and Booths, widows, orphans, and aliens are not named as participants in the festival, חג, of Passover (Deut 16:1-8). In one sense, the omission of widows, orphans, and aliens from Passover is in keeping with the passages in which formulaic references appear; Passover is not an agricultural festival. Yet, the Passover event is central to Israelite identity and to YHWH's redemptive actions and Deuteronomy's presentation of YHWH as a "bringer out of Egypt" that enjoins thankful obedience on the part of the Israelites to the covenant and laws. Passover instructions include a general summary in 16:1-3 and a more detailed explanation in 16:4-8. Deuteronomy 16:1-2 commands

Observe/guard the month of Abib and do *pesach* to the LORD your God for in the month of Abib, the LORD your God brought you from Egypt at night. You will sacrifice *pesach* to the LORD your God, flock or herd, in "the place that the LORD will choose to establish his name there."

Verse 3 commands the Israelites to eat only unleavened bread and ends with the motivation clause, "so that לִמְנָן you will *remember* the day of your going out from the land of Egypt all the days of your life," which ties to the key theme of remembering. In keeping with the limitations imposed upon ordinary Israelites, Deuteronomy 16:5-6 prohibits sacrificing *pesach* "in your gates" and repeats the admonition to sacrifice only in "the place." The end of the detailed Passover instructions in v. 8 suggests YHWH's work beyond deliverance from Egypt, insisting that "six days" the Israelites will not eat leavened bread, and on the seventh day they will hold a "festive assembly" and "do no work." That widows, orphans, and aliens are not explicitly listed as participants in Passover separates them from a key event in the life of the

Israelites as a people, and the link in v. 8 to YHWH's creative work in the world insinuates a much deeper separation.

Deuteronomy presents YHWH as a “bringer out of Egypt;” therefore the Passover event in Deut. 16:9-12 is central to YHWH's redemptive actions. Verse 3 commands the Israelites to eat only unleavened bread and ends with the motivational clause, “so that you may remember the day of your going out from the land of Egypt all the days of your life,” tying into the key theme of remembrance throughout Deuteronomy. Deuteronomy 16:5-7 prohibits sacrificing *pesach* “in your gates” and repeats the admonition to sacrifice only in “the place.” Deuteronomy 16:8 insists that “six days” the Israelites will not eat leavened bread, and on the seventh day they will hold an “assembly to the LORD your God” and “do no work,” *לֹא תַעֲשֶׂה מְלָאכָה*, just as YHWH rested after the work that YHWH did, *עָשָׂה מְלָאכָתוֹ*, in Genesis 2:2-3. The end of the Passover instructions in v. 8 carries valences of work beyond YHWH's deliverance from Egypt to YHWH as creator of the heavens and the earth and, thus, the rightful owner of the land.

Unlike the Festivals of Weeks and Booths in Deut. 16:13-15, widows, orphans, aliens, and Levites are not named in the Passover observance. The implicit link to the Israelites as aliens in Egypt is present, but the text does not mention the Israelites' status in Egypt as aliens, the role of the alien within Israel, nor widows, orphans, aliens, or Levites in particular. In one sense, the omission of widows, orphans, aliens, and Levites from Passover is in keeping with the passages in which formulaic references appear, since Passover is not strictly an agricultural festival. While the Passover observance contains agricultural language, it is not tied to agricultural seasons like the feasts of Weeks, festival of Booths, and the annual and third-year tithes, and there is also no provision for those living a great distance from “the place.” Rather, it is connected to YHWH's role in Israelite redemption echoed later in the Small Credo and the non-formulaic reference to

Levites and aliens in Deut. 26:11. However, the omission of widows, orphans, aliens, and Levites from an annual observance integral to the self-understanding of the Israelite nation underscores their separation and, perhaps, marginalization in the text.

Most models of food availability and consumption assume equal access to food by everyone and rest upon the theory of an egalitarian Israelite society.²⁴ Nathan MacDonald in his study *What did the Ancient Israelite Eat?*, argues that, due to unequal distribution, some groups experienced greater malnutrition than others as a result of the privilege of male heads of household, male elites, and male priests and, later, monarchical power. MacDonald contends that the male head of household determined the distribution of food based upon Meyers' work in *Discovering Eve*, where she argues that men cooked meat while women cooked grains and vegetables; however, MacDonald seems uncomfortable with the argument based upon male privilege when he concludes:

The head of the family appears to have had the right to determine how food was distributed among family members (1 Sam. 1:5; cf. Gen 43:24). It seems likely that prestigious foods, such as meat, would have been distributed with preference given to the family head and his male children.²⁵

Cooking is not the same as consumption and one does not logically follow from the other.

Further, MacDonald's argument does not take into consideration the complexities and shared power within the household and Meyer's nuanced view of patriarchal society. MacDonald argues that an even smaller group, the landless members of Israelite society, would have experienced constant food insecurity.²⁶ MacDonald may include widows, orphans, and aliens in this group since later he explicitly addresses this group as the "marginalized" in society who are the objects

²⁴ MacDonald, *What Did the Ancient Israelites Eat?*, 77-9.

²⁵ Ibid., 78.

²⁶ Ibid., 59.

of hospitality in Deuteronomy “with food as a defining national characteristic of the Israelites.”²⁷ MacDonald does not think that only widows orphans and aliens experienced food insecurity and malnourishment but that they were more vulnerable to food insecurity and chronic malnutrition.

4.4.4 Summary of Significant Omissions

The third-year tithe, a sacred meal eaten by a particular group of people in an otherwise forbidden location, is a performative ritual to ensure covenant loyalty and continued blessing by God. Widows, orphans, aliens, and Levites comprise a single group in Deuteronomy commanded to eat tithed foods in a location other than “the place,” an act strictly forbidden to the larger Israelite population. The intra-Deuteronomic themes of remembering and forgetting and eating and being full serve as a hinge for the oppositional use of language in Deuteronomy; the thing that can cause the vision to fall apart is also the thing that can redeem it. Ritual consumption by widows, orphans, aliens, and Levites set within these themes acts as the means of covenant fulfillment. Israelites in Deuteronomy “rest” their tithed foods in the gates because YHWH gives rest.

Widows, orphans, and aliens engaging in ritual consumption with Levites might look like an elevation in status, but they still serve as the means by which greater Israelite society secures God’s continued blessing and fulfills the entire commandment. The construction of widows, orphans, aliens, and Levites as poor and powerless has more to do with the assumptions readers bring to the text and to this group of people. Undergirding the idea that Deuteronomic law establishes a feeding program for a particular group of people in ancient Israel are the assumptions that this was an ancient “welfare” program analogous to similar welfare programs

²⁷ Ibid., 100.

today, that the rest of Israelite society ate well, which was likely not the case, and that what we find in Deuteronomy would be adequate sustenance for a segment of the population. We assume that there was only one cultic space in ancient Israel because Deuteronomy states it must be so without considering the different kinds of space Deuteronomy envisions or that Deuteronomy presents “the place” in such non-specific terms so that any place could serve as “the place.” Current scholarship often considers Deuteronomy a utopian vision of Israelite society, except where widows, orphans, aliens are concerned; it is still assumed that texts that mention these groups of people “really happened.” The most glaring evidence in Deuteronomy that widows, orphans, aliens, and Levites were not necessarily poor is their exclusion from Deuteronomy 15 and that Deuteronomy uses terminology for “the poor” separate from language referring widows, orphans, aliens, and Levites. Instead, formulaic references to this group that has special permission set within key themes in Deuteronomy points toward a different understanding that cannot be reduced to poverty. In a book that abounds with agrarian terminology to the extent of envisioning YHWH in agricultural terms, Deuteronomy does, in fact, express great anxiety about sufficient food supply, but this anxiety extended to the entire population, not a small group.

4.5 Food and Foodways Studies

Most treatments of widows, orphans, and aliens equate this group with the poor and assume that only impoverished people, as the most vulnerable in society, experienced food insecurity, hunger, and malnutrition. Concomitantly, many discussions of food supply in antiquity assume that an agriculturally-based society, unlike a hunter-gatherer society, ensured adequate amounts of and access to food, yet foodway studies reveal evidence of widespread,

prolonged malnutrition caused by long periods of food shortages.²⁸ Unlike famines, episodic food shortages occurred more frequently, resulting in chronic hunger and malnutrition.²⁹ While literary texts rarely reveal chronic hunger and malnutrition as a part of daily life, they do attest to anxiety about food that indicates hunger resulting in undernourishment.³⁰ In the same way, Deuteronomy does not represent daily life as one of chronic hunger but does reveal anxiety about food by contrasting past experience with the hope of future abundance. Deuteronomy recounts the Israelites' experience of leaving "that great and fearful wilderness" (Deut 1:19), a place connected to the memory of hunger (Deut 8:2-3), with the expectation of arriving in a rich and fertile land (Deut 1:22-25) and eating until satiated (Deut 8:7-10). In addition to negative expressions of anxiety about food supply, Deuteronomy's rhetoric about abundance, though positive, shows acute anxiety about food and an intense desire for food security. The profusion of language and themes related to food in Deuteronomy indicates that, not only "the poor," but also those who wrote, redacted, preserved, and transmitted Deuteronomy experienced food insecurity and chronic hunger. This anxiety about adequate food supply is also reflected in the formation and regulation of religious rituals and feasts for YHWH responsible for the fecundity of the land.³¹ The ritual use of food, distinct from actual foodstuffs (food supply, production, and distribution), illustrates the "non-food" or symbolic use of food to demarcate social boundaries or forge communal bonds among different groups of people.³² Ritual observances in Deuteronomy that involve food serve a function beyond sustenance. They demarcate through

²⁸ Garnsey, *Famine and Food Supply*, 2-3.

²⁹ Garnsey, *Food and Society*, 2. Although Garnsey specializes in Classical Antiquity, his distinction between famine and episodic food shortages is pertinent to a discussion of Israelite foodways. MacDonald brings these insights to bear upon ancient Israel in *What Did the Ancient Israelites Eat?: Diet in Biblical Times*, see the "Introduction" and 57-60.

³⁰ Garnsey, *Famine and Food Supply*, 6.

³¹ *Ibid.*, 3.

³² *Ibid.*, 6-7.

means of inclusion and exclusion widows, orphans, aliens, and Levites from the larger Israelite community.

As discussed above, assumptions about widows, orphans, aliens, and Levites in Deuteronomy illustrate the problem of rhetoric versus likely reality, just as references to food in the biblical text belie the likely realities of the Israelite diet. The appearance of food items in Deuteronomy contradicts the reality of the Israelite diet by not taking into account the rhetorical and theological purpose of language about and descriptions of the land, the changing nature of the Mediterranean diet, and the assumption that the lists of foods in the biblical text were widely available and evenly distributed.³³ Of the available evidence about the Israelite diet, the biblical text remains problematic due to its long and varied process of writing, redaction, and transmission. Further, the theological, rhetorical, and social reasons for its composition do not address the questions asked of it; it presents a wide array of foods marked by symbolic value rather than availability and distribution.³⁴ Evidence about the Israelite diet contradicts the image that only widows, orphans, aliens, and Levites needed of food assistance because, “Our current state of knowledge suggests that the population of Iron Age Israel generally suffered from an inadequate diet, poor health, and low life expectancy.”³⁵ The differences between the reality and the rhetoric of the Israelite diet show that food is not neutral but plays an integral role in Deuteronomy’s vision of covenant obligation and obedience. Much of the rhetoric about widows, orphans, aliens, and Levites as the marginalized in Israelite society rests upon an implicit

³³ MacDonald, *What Did The Ancient Israelites Eat?*

³⁴ Ibid., 10-12. According to MacDonald, evidence of food and food consumption includes texts, archaeology, comparisons to the ancient Near Eastern culture, anthropology, and scientific insights about land and nutrition. For MacDonald, current models for food production and consumption in ancient Israel pose further problems in assessing the available evidence, such as differing results produced by different models and preconceived notions about subsistence that preclude trade. See “Modeling the Israelite Diet” in *What Did the Ancient Israelites Eat?*, esp. 47-49.

³⁵ Ibid., 87.

assumption that the majority of Israelites ate well and only this group, along with the poor, experienced hunger—without considering the symbolic function of food in Deuteronomy as a whole and in relation to this group in particular. Consideration of what, where, and when this group ate, alongside the symbolic use and rhetorical force of food availability and consumption in Deuteronomy requires a rethinking of the current conceptualization of widows, orphans, aliens, and Levites.

4.5.1 Food and Deuteronomy

Food is, in fact, central to Deuteronomy’s presentation of YHWH, Israel, and covenant loyalty. Agricultural motifs that involve abundance, sowing/descendants, and fruitfulness frame the text. YHWH, as a literary character, is conceived in terms of a “bringer [יֵצֵא] out of Egypt,” the same verbal root for the produce—or literally “what comes out of”—the field.

The verb, זָרַע, which means to sow seed (Deut 14:22; 22:9), figuratively refers to the “descendants” of Abraham, Isaac, and Jacob throughout the book of Deuteronomy (Deut 1:8; 28:46; 28:59; 30:6; 30:19; 31:21; 34:4), and envelops the entire book within a chiasmic, agricultural frame (Deut 1:8 and 34:4).³⁶ Hebrew words and phrases that describe the fecundity of the land and people abound in the text. The description of the land as a “land flowing with milk and honey” occurs most frequently in the Pentateuch and, within the Pentateuch, in Deuteronomy, almost always describing a future hope.³⁷ The idea of “fruitfulness,” פֶּרִי, also encloses the text. In Deuteronomy 1:25, those sent to scout the land bring some of “the fruit of the land,” תְּבֵרֵי הָאָרֶץ, to show that “The land is good that the LORD our God is giving to us,” לָנוּ

³⁶ Yahweh also instructs Moses to climb Pisgah in order to view the vast North, south, east and west) gift of land, encompassing what Moses can see when he looks west, north, south and east, in Deut. 3:27.

³⁷ MacDonald, *What Did the Ancient Israelites Eat?* 7.

טובה הארץ אשר יהיה עליהנו. The term for fruit is used again in Deuteronomy to denote the potential fecundity of the Israelite people, “the fruit of your belly,” and the land, “the fruit of your land, your grain, wine, and oil,” as a result of covenant obedience (Deut 7:12-13). Near the end of Deuteronomy, fruitfulness, designated as “the fruit of,” extends also to livestock (Deut 28:4-11).

Words and phrases indicating abundance rhetoric characterize the land and people in Deuteronomy. Those sent to scout the land describe its inhabitants as great and tall, גדול ורם, the implied result of living in good and rich land, and their cities as great, גדלת, and unassailable usually translated “fortified to the heavens,” ובצורת בשמים (Deut 1:28). Consequently, the language exalted/tall describes the potential danger later in Deut. 8:14, “when your heart will become proud and you forget the LORD your God,” ורם לבבך ושכחת את יהוה אלהיך. In Deut. 9:1-2 the people and cities are again described as great and, now, mighty, ועצמים, and the cities again, great and unassailable, ערים גדלת ובצורת בשמים. Language about abundance of the land, though not explicitly tied to food, nevertheless assumes an abundant food supply; however, this same language, רם, also appears in Deuteronomy to indicate the ever-present danger of abundance and the comfort it brings.

Key themes in Deuteronomy, guarding oneself, שמר, remembering and forgetting, זכר and שכח, and eating and being full, שבע and אכל, emphasize the advantages of covenant obedience through the benefits of a rich land. The extensive use of repetition throughout Deuteronomy contributes to its persuasive effect, bringing together these key themes to maintain a sustained focus on the gift of land from YHWH that evokes covenant loyalty.³⁸ Focusing on

³⁸ Brent A. Strawn, “Keep/Observe/Do—Carefully—Today! The Rhetoric of Repetition in Deuteronomy,” in *A God So Near: Essays on Old Testament Theology in Honor of Patrick D. Miller*, ed. Brent A. Strawn and

the final form of Deuteronomy and “intra-Deuteronomistic” themes contributes to an alternate understanding of Deuteronomy’s presentation of widows, orphans, aliens, and Levites.³⁹ These key themes also indicate the dangers of being too secure and comfortable in the land.

Deuteronomy 8:7-14 provides one of the richest descriptions of the land within the text and brings together the themes of guarding oneself, remembering and forgetting, and eating to the point of satiety:

כִּי יִהְיֶה אֱלֹהֶיךָ מְבִיאֲךָ אֶל-אֶרֶץ טוֹבָה אֶרֶץ נַחֲלֵי מַיִם עֵינַת וְתַהֲמַת יִצְאִים
בְּבִקְעָה וּבְהָרִ: אֶרֶץ חֹטָה וְשֹׁעֲרָה וְגִפֶּן וְתַאֲנָה וְרִמּוֹן אֶרֶץ-זֵית שָׁמֶן וְדָבָשׁ:
אֶרֶץ אֲשֶׁר לֹא בְּמִסְכֶּנֶת תֹּאכַל-בָּהּ לֶחֶם לֹא-תִחְסֹר כָּל בָּהּ אֶרֶץ אֲשֶׁר
אֲבָנֶיהָ בְּרֹזָל וּמִהַרְרֵיהָ תִּחְצֹב נְחֹשֶׁת: וְאָכַלְתָּ וְשָׂבַעְתָּ וּבִרְכָתָהּ
אֶת-יְהוָה עַל-הָאֶרֶץ הַטֹּבָה אֲשֶׁר נָתַן-לָךְ

For the LORD our God is bringing you to a good land, a land of streams filled with water, of springs and deep oceans coming out of the valley and the plain; a land of wheat and barley, and vine and fig tree and pomegranate, a land of olive oil and honey; a land in which there is no poverty, where you will eat bread without lack, a land whose stones are bronze and from whose mountains you will mine copper. And you will eat, and you will be full and the LORD your God will bless you in the good land which he is giving you.

Very soon, however, the blessing of eating and being full becomes a warning. In Deut. 8:11-14, the warning formula articulated in v. 11, הִשָּׁמֶר לָךְ פֶּן (Niphal imperative), is tied to v. 12 by the repetition of פֶּן:

Nancy R. Bowen (Winona Lake: Eisenbrauns, 2003), 215-217. Strawn’s work stands as one of the few treatments of Deuteronomy that focuses upon Deuteronomy in its final form at a rhetorical level. According to Strawn, repetition within this exhortative style of Deuteronomy leaves key themes in the minds of its readers which consist of a group of verbs and their objects which remain in the ears, minds, and hearts of readers, which are, according to Strawn, keeping, observing, listening, hearing, and obeying God’s commandments, statutes, ordinances. Further, Strawn points out, “It is also significant that most treatments of repetition in the field of biblical studies deal only with the phenomenon in *narrative*. Treatments of repetition within the legal material are rare and, when present, typically concerned with other, more diachronic issues” (216-217). Literary studies with historical critical concerns and goals, such as source criticism and tradition history, rely on repetition as a key literary feature; however, repetition can also function on the literary level of the text for rhetorical effect. See also: Jerry Hwang, *The Rhetoric of Remembrance: An Investigation of the “Fathers” in Deuteronomy*, *Siphrut Literature and Theology of the Hebrew Scriptures* 9 (Winona Lake: Eisenbrauns, 2012). Robert Polzin, *Moses and the Deuteronomist: A Literary Study of the Deuteronomistic History* (New York: Seabury, 1980).

³⁹ Strawn, “Keep/Observe/Do,” 219 n. 17 and 220.

הִשָּׁמֶר לָךְ פֶּן־תִּשְׁכַּח אֶת־יְהוָה אֱלֹהֶיךָ לְבַלְתִּי שָׁמֹר מִצְוֹתָיו וּמִשְׁפָּטָיו וְחֻקֹּתָיו
 אֲשֶׁר אֲנֹכִי מְצַוְךָ הַיּוֹם: פֶּן־תֹּאכַל וּשְׂבַעְתָּ וּבָתִּים טוֹבִים תִּבְנֶה וְיִשְׁבַּת: וּבִקְרָךְ
 וְצֹאנֶךָ יִרְבּוּ וְכֶסֶף וְזָהָב יִרְבֶּה־לָּךְ וְכָל אֲשֶׁר־לָּךְ יִרְבֶּה: וְרָם אֲשֶׁר־לָּךְ יִרְבֶּה:
 וְרָם לִבְבְּךָ וּשְׁכַחְתָּ אֶת־יְהוָה אֱלֹהֶיךָ הַמוֹצִיאֲךָ מֵאֶרֶץ מִצְרַיִם מִבֵּית עֲבָדִים:

Guard yourself lest you forget the LORD your God by not treasuring his commandments and judgments and ordinances I am commanding you today; lest you eat and are full and build good houses and settle down and your cattle and flocks multiply [as I said they would] and gold and silver belonging to you are multiplied and all that you have multiplies, and your heart is lifted up and you forget the LORD your god, the one who brought you out of the land of Egypt from the house of slavery.

The text continues, “Do not forget” (v. 14) but “remember YHWH” (v. 18).

Eating particular foods in a designated location becomes an essential means of obeying the covenant and securing YHWH’s blessing in the law collection. Deuteronomy 12 establishes the proper consumption of food and warns against improper observance, echoing warnings found earlier in the book of Deuteronomy (Deut 12:9):

הִשָּׁמֶר לָּךְ פֶּן־תִּעְזֹב אֶת־הַלֹּוי

Guard yourself lest you forget the Levite.

Deuteronomy specifically links widows, orphans, aliens, and Levites to the festivals of weeks and booths and the annual and third-year tithes. These warnings in Deut.12 connected to earlier warnings in the text discussed above are integral to an alternate understanding of widows, orphans, aliens, and Levites in the book of Deuteronomy.

In Deut. 14:28-29, the third-year tithe is to be presented “in your gates” so that widows, orphans, aliens, and Levites will eat and be full. This act is followed by the motivational clause “so that the LORD your God will bless you in all the undertakings of your hands which you do.” This command to all Israelites to make tithed food available to a particular group of people

outside of the “the place” contradicts Deuteronomy’s supposed emphasis upon cult centralization. These rituals conducted outside of “the place” also express abundance (There is more than enough food for everyone, so much so that the entire third year tithe can be placed in another location for consumption by a small group), concern about food and food supply and, the means to secure an abundant food supply for the entire community. Deuteronomy 26:12-15 contains the same action for this third-year meal, eating to satiety by widows, orphans, aliens, and Levites in the gates as well as an extended motivation clause that includes blessing the ground and the people Israel. The theme of eating and being full which stands in relationship to guarding oneself and remembering or forgetting the covenant with YHWH reveals the ritual function of consuming tithed food.

Eating to fullness spans Deuteronomy, appearing within the introductory frame that begins the collection of laws (Deut 6:10-13; 8:7-20; and 11:13-17), within the formulaic alien-orphan-widow passages (Deut 14:22-29 and 26:12-15) and in the appendix (Deut 31:16-22). The first reference to eating to satiety in Deut. 6:10-12 follows the Shema and links the promise of the land to the ancestors and to the kind of eating and being sated that engenders forgetting

וְהָיָה כִּי יָבִיֵאֵךְ יְהוָה אֱלֹהֶיךָ אֶל-הָאָרֶץ אֲשֶׁר נִשְׁבַּע לְאַבְרָהָם לֵאמֹר
וְלִיעֲקֹב לָתֵת לָךְ עָרִים גְּדֹלֹת וְטֹבֹת אֲשֶׁר לֹא-בָנִיתָ וּבָתִּים מְלֵאִים כָּל-טוֹב
אֲשֶׁר לֹא-מָלֵאתָ וּבִרְתָּ חֲצֹבִים אֲשֶׁר לֹא-חָצַבְתָּ כְּרִמִּים וְזֵיתִים אֲשֶׁר לֹא-נִטְעַתָּ
וְאָכַלְתָּ וְשָׂבַעְתָּ הַשָּׂמֶר לָךְ פֶּן-תִּשְׁכַּח אֶת-יְהוָה אֲשֶׁר הוֹצִיאָךְ מֵאֶרֶץ מִצְרַיִם
מִבֵּית עַבְדִּים

When the LORD your God brings you to the land that he swore to your fathers, to Abraham, Isaac, and Jacob to give to you, great and good cities which you did not build and houses full of good things that you did not fill and hewn cisterns that you did not

hew, vineyards and olive trees that you did not plant, and *you eat and are sated*, guard yourself lest you forget the LORD who brought you from the land of Egypt from the house of slavery.

The idea of eating and being sated is also linked to YHWH as a liberator and a “bringer out of Egypt.”

Forgetfulness is not the only consequence of comfort. Forgetfulness leads to the primary threat to YHWH: Israel’s turning and serving other gods (Deut 11:13-17 and 31:20).

Deuteronomy 31:20 views turning and serving other gods as a future reality known by YHWH, “When I bring them to the ground that I swore to their fathers, flowing with milk and honey, and they eat and are sated, they will turn to other gods and serve them.” In Deut. 11:13-17, obedience results in seasonal rain, good harvests, and food for livestock, and eating and being full. Turning and serving other gods brings about drought “then you will perish, אָבַד, quickly off of the good land that the LORD is giving to you” (11:17). The verbal root for “perish,” אָבַד, is related to the Israelites’ historical self-understanding; when they appear before the priest to tithe the first fruits of the land and recount their history, they begin, “A ‘wandering’ Aramean [was] my father, and he went down to the land of Egypt and was an alien there” (Deut 26:5). According to the Israelite’s historiography, the archetypal ancestor becomes mighty and numerous in Egypt, is afflicted, oppressed, set to hard work, cries out and is brought out of Egypt by YHWH to a land flowing with milk and honey (26:5-9). Thus, turning and serving other gods has the capacity to negate both the physical benefits of the land and Israelite self-understanding.

4.5.2 Excursus: Levites as Cult Functionaries in Deuteronomy

As with widows, orphans, and aliens, it is necessary to consider the Levite within the bounds of the final form of Deuteronomy, a text that does not present Levites as poor or

powerless members of Israelite society or second-tier priests. The idea of Levitical land disenfranchisement resulting in poverty presupposes cult centralization in tandem with the historical reconstruction of Levites based upon texts outside of Deuteronomy. This construction is then presumed of the Levite in Deuteronomy, when, in fact, Deuteronomy uses the terms “priest” and “Levite” interchangeably.⁴⁰ Striking features of Levites in Deuteronomy question the appropriateness of this predominant reconstruction. For instance, Levites in Deuteronomy hold an exalted place in Israelite society (Moses is a Levite) and serve in a number of priestly and administrative roles. The Aaronide priesthood is almost non-existent in Deuteronomy, and the few texts in which it does appear are few and neutral or negative. Scrutinizing the role of the Levite in Deuteronomy in this way has important implications for the conceptualization of widows, orphans, and aliens.

Levitical disenfranchisement rests upon several assumptions, namely that Levites were “country priests” who served exclusively at local shrines, that they had no land holdings, that Deuteronomy’s vision of cult centralization was realized and that, with cult centralization, Levites became a class of priestly attendants who carried out the menial labor within the temple. Deuteronomy 10:8-9 is traditionally thought to establish Levitical impoverishment:

בַּעַת הַהוּא הִבְדִּיל יְהוָה אֶת־שִׁבְט הַלֵּוִי לְשֵׂאת אֶת־אֲרוֹן בְּרִית־יְהוָה לַעֲמֹד
 לִפְנֵי יְהוָה לְשָׁרְתוֹ וּלְבָרֵךְ בְּשֵׁמוֹ עַד הַיּוֹם הַזֶּה׃ עַל־כֵּן לֹא־הָיָה לַלֵּוִי חֶלֶק
 וְנַחֲלָה עִם־אֶחָיו יְהוָה הוּא נַחֲלָתוֹ כַּאֲשֶׁר דִּבֶּר יְהוָה אֱלֹהֶיךָ לּוֹ׃

At that time the LORD set apart the tribe of Levi to carry the ark of the covenant of the LORD, to stand before the LORD, to minister to him, and to bless his name until this day; therefore, Levi has no portion or inheritance with his brothers. The LORD, He is his inheritance, just as the LORD your God, said to him.

⁴⁰ Deuteronomy 26:1-11 stands as the single exception and is treated under “Non-formulaic Texts.”

These two verses, read in light of the story of land apportionment in the book of Joshua, seemingly establish the Levite's lack of patrimony from Moses after the conquest of the land (Josh. 13-17). In Joshua 14:3, Moses assigns portions of land to the tribes of Israel as an inheritance, נחלה, but "to the Levites, he did not give an inheritance in the midst of them" and in v. 4, the people of Joseph "did not give a portion, חלק, to the Levites in the land, but cities, ערים, to dwell in, their pasturelands for their cattle, and their acquired things" (cf. Num. 35: 2-8; Lev. 25:32-33). According to the book of Joshua, the Levites are not disenfranchised. Their inheritance, נחלה, includes the "offerings by fire of the LORD, the God of Israel" (Josh. 13.14), the "priesthood of the LORD" (Josh. 18:7), and, ultimately, "the LORD God of Israel" (Josh. 13:33). More importantly for this study, the Levites have cities in which to live, pastureland for their herds, and whatever else they may acquire from those lands. Further, by serving in the temple, Levites would have had use of the temple grounds (Josh. 14:4; 21).

Much of the historical reconstruction of the role of the Levites in Israelite history is based upon the book of Numbers and the distinctions in service between the Aaronide priesthood and the Levitical priesthood. The case, however, is not so clear, for Aaron, like Moses, is a Levite (Exod. 4:14). In Num. 18:1, Aaron and his "ancestral house," וּבֵית־אָבִיךָ אָתָּךְ, "carry the guilt for the holy place/sanctuary," while Aaron and his sons are responsible for the guilt of their priesthood. Chapter 18 goes on to outline the offerings that belong to Aaron and his sons as priests (18:8-20), a section that ends at verse 20, "And the LORD said to Aaron, "In their [the Israelites'] land, you shall have no inheritance, נחל, and there will be no portion, חלק, for you among them. I am your portion, חלק, and your inheritance, נחלה, in the midst of the children of Israel." The charge that Levites belong among the poor and disenfranchised because they have no land apportionment does not hold, since this was also the normative state of affairs for the

Aaronide priesthood according to Num. 18:20. Numbers 18:21-32 continues addressing the Levites and the offerings due to them. Here, YHWH designates the tithes as the Levites' inheritance, and instructs them to consecrate the best, a "tithe of the tithe" or a "tenth of the tenth" as an offering to YHWH (18:26). In v. 31, YHWH grants, "You may eat it in any place, you and your households; for it is your wages, compensation for your work in the tent of meeting." The chapter ends by reiterating the importance of the tithe or "the holy things of the children of Israel" (18:32). The Levites cannot profane these upon pain of death. Thus, the Levites are permitted to eat tithed food in any place after they have consecrated the best of it and given that to Aaron to offer to YHWH (18:28).

The theory of Levitical land disenfranchisement is thought to go back even further than Joshua or Numbers to originate with the actions of Simeon and Levi in Gen. 34, the story of the rape of Dinah, read in conjunction with Jacob's declaration of what will happen to them at the "end of days" in Gen 49:5-7.⁴¹ Here, Jacob's negative blessing ends "I will divide, חלק, them in Jacob and I will scatter, פּוֹץ, them in Israel" (Gen 49:7). Ironically, Levi will be divided using the language of inheritance, חלק. It is the language of dispersion, פּוֹץ, that carries valences of Deuteronomic themes, in this case fear of the loss of homeland (Deut 4:27; 28:64; 30:3), which figures prominently in Deuteronomy's emphasis upon covenant obedience in order to settle and keep the land. In spite of negative assessments of the Levites in Genesis and Numbers, Deuteronomy presents a different picture.

Moses, the narrator of Deuteronomy and the leader of the Israelite people, is, himself, a Levite, the child of a Levite mother and father (Exod. 2:1 and 6:19-20). Further, Deuteronomy

⁴¹ Joel S. Baden, "The Violent Origins of the Levites: Text and Tradition," in *Levites and Priests in Biblical History and Tradition*, ed. Mark Leuchter and Jeremy M. Hutton, *Ancient Israel and its Literature* 9 (Atlanta: Society of Biblical Literature, 2011), 106-13. n *Levites and Priests in Biblical History and Tradition*, ed. Mark Leuchter and Jeremy M. Hutton, 111-12.

makes almost no distinction between “priests” and “Levites.” Apart from the formulaic texts in which Levites appear, Levites are set apart for sacral duty (10:8-9), make difficult legal decisions (17:8-10), witness the writing of the law for the king (17:18), minister at the sanctuary (18:1-8), speak with one voice with Moses (27:9-10), address the entire Israelite nation (27:11-26), read the law to the whole assembly every seven years (31:9-13), write down and guard the law (31:24,-29), assemble the elders before Moses (31:28), and receive an unequivocally positive blessing near the end of the book of Deuteronomy (33:8-11).⁴² Deuteronomy makes little mention of the Aaronide priesthood, and when it does appear in Deuteronomy, the Aaronide priesthood is cast in negative terms.

Levites first appear in Deut. 10:8-9 in a sacral context carrying out priestly duties: YHWH separates them, בָּדַל, for the sacred duty of carrying the ark; they stand before and minister to YHWH, and bless YHWH’s name, all priestly functions within the Yahwistic cult. There is, in fact, little mention of the Aaronide priesthood in Deuteronomy, save an editorial insertion in Deut. 10:6 about the death of Aaron and the succession of Eleazar his son. Aaron, himself, is mentioned only three times in Deuteronomy: Moses’ recounting of the golden calf incident (9:20), Aaron’s death (10:6), and Moses’ eminent death where he will be “gathered to his people” just as Aaron was at his death on Mount Hor (32:50). Aaron appears in Deuteronomy only in the context of his guilt and death, and Eleazer appears just the one time as Aaron’s successor. In the societal structure envisioned by Deuteronomy, Levites hold a high religious and political position, serving YHWH and mediating between Moses and his appointed judges and elders.⁴³

⁴² For the Levites’ role as judicial administrators and the power this role entails, see: Mark Leuchter, “‘The Levite in Your Gates’: The Deuteronomic Redefinition of Levitical Authority,” *JBL* 126 (2007): 417-36.

⁴³ For the positive depiction of the Levites in Deuteronomy, see Baden, “Violent Origins,” 105-07.

Deuteronomy uses the terms “priests” and “Levites” interchangeably. The term “priest” appears fourteen times in Deuteronomy. Of these fourteen occurrences, it stands alone six times (10:6; [17:12 is not counted here because it was already qualified in 17:9 as “the priests, the Levites”]); 18:3; 19:17; 20:2; 26:3; 26:4). Deuteronomy does not envision a strong Aaronide priesthood; when the term “priest” appears alone, it occurs in a generic sense in the future as in “whoever is serving as priest at that time.” The phrase “the priests” followed by the designation “the Levites” (“the priests, the Levites” הַכֹּהֲנִים הַלְוִיִּם), occurs six times (17:9, [12]; 17:18; 18:1; 24:8; 27:9), and the phrase, “the priests, the sons of Levi,” הַכֹּהֲנִים בְּנֵי לֵוִי, appears twice (21:5; 31:9).

Deuteronomy 18:1-8 conflates priests and Levites as one group. For instance, in Deut. 18:1, the subject of the verse is “the priests, the Levites, all the tribe of Levi,” הַלְוִיִּם כָּל־שִׁבְט לֵוִי, לַכֹּהֲנִים. Rather than distinguishing between priests and Levites, this phrase suggests in very specific terms any and all Levites who are understood as priests in Deuteronomy. Deuteronomy 18 echoes Deut. 10:8-9, stating that YHWH serves as the Levites’ portion, חֶלֶק. Among the priests’ due, Deut. 18 commands the Israelites to give the “first fruits” to the Levites, an important connection between Levites and widows, orphans, and aliens in other places in Deuteronomy. Telling also is the placement of Deut. 18:1-8. The law of the king immediately precedes the rules regarding proper treatment of Levitical priests followed by the injunction not to imitate other nations. The only text that shows a distinction between priests and Levites is that of Deut. 26 where the Levites appear as part of the cultic celebration of first fruits (26:1-11).

The association of Levites with widows, orphans, and aliens in Deuteronomy is thought to prove beyond a doubt their poverty and marginal status in Israelite society; however, the cultic context in which this association occurs emphasizes the Levites’ religious role in the text. The

association of Levites with widows, orphans, and aliens does not mean that Levites are disenfranchised, but, rather, that widows, orphans, and aliens join Levites in the performance of cultic rituals involving the tithed staples of Israelite agricultural production—grain, wine, and oil.

These ritual enactments occur in distinctly Israelite spaces, marked in the text by their location “in your gates,” בִּשְׁעָרֶיךָ, as opposed to “cities,” עָרִים. Typically translated using a single term, “towns” or “cities,” the Hebrew terms for “in your gates,” בִּשְׁעָרֶיךָ and “cities,” עָרִים delimit two very different kinds of space in Deuteronomy. Most significant for this study is the use of שְׁעָר; qualified by the second masculine singular ending, “your,” in almost every occurrence in Deuteronomy, a form that appears throughout and almost exclusively in Deuteronomy alone.⁴⁴ Like the refrain “the LORD *your* God,” the phrase “in your gates” designates the land given to the Israelites by YHWH. On the other hand, “cities,” עָרִים, in the early part of Deuteronomy are the places the Israelites scouted, conquered, destroyed, and plundered. Cities are the places “you did not build” (Deut 6:10). With the exception of the law provisions in chapters 21-22 and the cities of refuge, cities, עָרִים, are the established, non-Israelite places that YHWH is giving to the Israelites. In contrast, “in your gates” signifies land as gift by YHWH alone. Deuteronomy demands that widows, orphans, aliens and Levites, eat a ritual meal “in your gates,” comprised by tithed foods, foods eaten in a location strictly forbidden to everyone else. That tithed foods are what “go out,” יֵצֵא from the field as the Israelites “went out” יֵצֵא of Egypt formally acknowledges YHWH’s actions on behalf all Israelites to ensure that YHWH will bless their future, regular food supply, i.e. “the work/undertaking of your hands,”

⁴⁴ Various forms appear throughout Deuteronomy, but almost all have the identifier “your” gates. The form, בִּשְׁעָרֶיךָ, appears eighteen times in Deuteronomy and once in Exodus 20:10, Psalm 122:2, and Ezekiel 26:10.

יָדָךְ מַעֲשֵׂה יָדָךְ, (Deut 14:29; 15:10; 16:15; 24:19; 28:12; 30:9;) or “the ground” (Deut 26:15).⁴⁵

These rituals ensure continued, prolific habitation of the land, and this association of widows, orphans, and aliens with Levites within the cultic sphere could be read as an elevation of their status were it not for the cooption involved by their mandatory participation in yearly and thrice-yearly rituals to enact covenant obedience and loyalty for the entire people of Israel.

4.5.3 Summary of Food and Foodways

Through agricultural themes that frame and permeate the book, Deuteronomy shows enormous concern about food supply even to the point of characterizing YHWH in agricultural terms. This deep fear of and desire for food security determines the bounds of covenant obedience to a deity who brings the Israelites out of Egypt with the same abundance that produce comes forth from the land. The reward of covenant obedience is a long life in a rich, abundant land that provides a surplus of food. This abundance, perhaps a reality in only a small part of Israel’s history, fuels the idea of providing for those less fortunate in society. Deuteronomy, however, does not envision widows, orphans, and aliens as passive receivers of benevolence. They join with Levites, who function as cultic leaders in Deuteronomy, to partake in a ritual meal that hinges upon a specific intra-Deuteronomic theme: “eating and being full.” Eating to the point of satiety, a warning outside of its reference to widows, orphans, aliens and Levites, becomes a required action to fulfill covenant obedience by one group that is allowed, even commanded, to eat particular foods at a time and place otherwise strictly forbidden to Israelites

⁴⁵ Three different words for work appear in Deuteronomy: מַעֲשֵׂה יָדָךְ, מְלָאכָה, and פֶּעַל. Yahweh’s blessing of the work of the Israelites’ hands, מַעֲשֵׂה יָדָךְ, is stated as accomplished fact in Deut. 2:7; as warning or future betrayal in Deut. 4:28 and 31:29; and God’s work (Deut 11:17). Work as “מְלָאכָה” appears in commandments to “not work” in Deut. 5:13-14 and 16:8. In the poetical “Song of Moses” and “Blessing of Moses,” Yahweh’s work is described as פֶּעַל (Deut 32:4 and 33:11).

outside of this group.

Conclusion

What is your vision of a just society? This study posits that Deuteronomy sought to answer this question within its own context and cultural heritage. The book of Deuteronomy shows distinct innovations in that the text took a key idea of royal ideology—protection of widows and orphans—expanded it, and set it within its law collection instead of presenting it solely as a framework for its laws. This formulaic, ideological trope has worked all too well. Concern for the impoverished and powerless members of Israelite society, “the alien, the orphan, the widow, and the Levite,” is heralded as Deuteronomy’s humanitarian ethic and a model worthy of emulation today. The ideas associated with this formulaic trope have remained largely unquestioned in current-day popular and scholarly thinking.

This study has sought to question the current construction of widows, orphans, aliens, and Levites on multiple fronts by interrogating the unstable foundations of the *bēt ʿab*, establishing care for widows and orphans as a highly stylized facet of royal ideology rather than actual protection, recognizing Deuteronomy’s deep concern about food security that not only frames the text but also appears throughout as an organizing feature, and emphasizing the importance of the motive clauses following these so-called legal protections. Disability Studies (DS) allows for consideration that the formulaic references to widows, orphans, and aliens do, in fact, indicate an artificial construction of this group in Deuteronomy. A narrative approach to the text uncovers the intertextual links between the formulaic references and Deuteronomy’s fear of food insecurity and independent existence in their own land.

In chapter one, this study explored a piece of disability history by exploring the establishment of charity organization in nineteenth century America through its founder S. Humphreys Gurteen, an upper-class Englishman who immigrated to Buffalo, New York. Gurteen, a man of little independent thinking, liberally borrowed from the work of other people as well as his own, to compile the groundwork for establishing Charity Organization Societies throughout the U.S. In fairness, charity organization workers were attempting to deal with the very real problem of pervasive poverty in the U.S., and they enjoy notoriety in the annals of history as the progenitors of the modern social work system and field of study. Few read their history with a critical eye. In fact, early treatments and some not-so-early-treatments of Gurteen and the COS reside more in the genre of hagiography than history. This study, from a DS perspective, considers the historical context in which the COS emerged in the U.S. and reads this history in light of its impact upon disabled lives.

This study expected to find within the concept of charity an overarching construction of disabled people as unable to work and, thus, widely commended to charitable care. The basis of the Charity Organization Society failed to take into consideration the systemic causes of poverty and readily blamed the victims of larger economic forces at work in our young nation's history. While the ideological basis of charity organization offends modern sensibilities and likely caused irreparable damage and even death for impoverished people, it did not, in fact, construct people with disabilities in a singular way. It did, however, do great harm to disabled people, their ability to find gainful employment while keeping medically necessary and in some cases, life-saving medical coverage and equipment, and set in motion the current system that prevents many disabled people from living a flourishing life. The COS in conjunction with the restructuring of work inherent to the Industrial Revolution set in motion the perception that people must be able

to work in order to be valued, participating members of society. This places many disabled people in an impossible situation: do not exceed income at \$13, 560 per year or lose benefits that most of the U.S. population could not afford on their own. Further, the COS as the precursor to the modern-day social work movement, instituted case work and the gatekeeping for benefits, services, and medications, as well as the incessant gaze upon and regulation of disabled people's lives. The type of thinking found in Gurteen's writing has had a long-lasting effect and caused irreparable harm to people with disabilities.

Chapter two demonstrated that no two scholars or methodological approaches define the *bēt ʿab*, the presumed basis of the disenfranchisement of widows, orphans, aliens, and Levites in "ancient Israelite society," in the same way. This chapter also explored treatments of widows, orphans, and aliens—individually and in their various combinations—to show that little variation exists in the thinking about these persons in antiquity. Only the Levite stands out as other than an impoverished, disenfranchised member of Israelite society. In fact, Levites in Deuteronomy are powerful literary characters. In the book of Deuteronomy, they act on behalf of YHWH as cult functionaries in Israelite society. They are the hinge upon which a reconsideration of widows, orphans, and aliens in Israelite society turns. Further, this chapter revealed that when some scholars—no matter their methodological approach—look to a modern-day analogy to widows, orphans, aliens, and Levites, they turn to disabled people, the commonality being their supposed vulnerability. This construction of disabled people as vulnerable and in need of protection by larger society harms people with disabilities. What disabled people need is full agency and accessibility in society—something that this enduring infantilization will never allow. A DS approach is fundamental to thinking about widows, orphans, aliens, and Levites—as well as disabled people—in a new way.

Chapter three explored references to the protection of widows and orphans throughout antiquity in Mesopotamia to establish that these references functioned as an important part of royal ideology, whether ascribed to a god or a human ruler. This study argues that one can find these references at the dawn of written history through Deuteronomy because of the power of this ideology. Studies of widows, orphans, aliens, and Levites read these references in the vein of historical positivism—that these texts report *what actually happened* rather than a rhetorical trope about the accomplishments of a good king.

Many of these formulaic references occur within law collections, such as the posited law collection in the “Reforms of Urukagina,” the Laws of Ur-Namma, and the Laws of Hammurabi (LH); therefore, this chapter also reviewed current theories of biblical law to show the influence of theories regarding ancient Near Eastern law, namely the scientific treatise, upon biblical law. This study seeks to show ways in which Deuteronomy maintains many facets of royal ideology, except in the book of Deuteronomy, YHWH is the just ruler providing abundant food, water, and safety to the people. Studies of biblical law remain squarely within the “descriptive legal treatise” theory of biblical law whereby the law collections in the HB represent authoritative, operational law. From this perspective, references to widows, orphans, aliens, and Levites in deuteronomic law will always represent care of a vulnerable group of people in society in the secondary literature. It is for this reason, that a DS and narrative-rhetorical approach to these texts in Deuteronomy is necessary for rethinking of widows, orphans, aliens, and Levites in Deuteronomy.

Chapter four presents a narrative reading of the formulaic and non-formulaic texts in Deuteronomy, as well as significant omissions from texts integral to the Israelite identity and its national story. This chapter also points to the structuring function of food in the book of

Deuteronomy. In this text, one finds the repetition of verbal roots that pertain to food, i.e. “what comes out of the ground” [יֵצֵא] and metaphorical references to “descendants” derived from the verb for sowing seed, זָרַע. The narrative reading of this chapter also reveals how the command to widows, orphans, aliens, and Levites to eat until they are filled as a positive ritual function echoes the negative consequences of this very same action earlier in the text. This study argues that it is not that Levites are associated with widows, orphans, and aliens as disenfranchised, impoverished members of Israelite society but, rather, that widows, orphans, and aliens are associated with Levites as cult functionaries in Deuteronomy. Together, though their actions in these ritual observances in the formulaic texts, they accomplish covenant obedience for the entire Israelite community.

This study ultimately argues that these formulaic references point to a dynamic beyond their individual referents. One may never know what the authors and editors of Deuteronomy wanted to communicate through the use of this formula. It is clear, however, that this text presented familiar material in a new and innovative way. The difficulty is that many have accepted Deuteronomy’s presentation, the separation of and use of a particular group of people as a means to an end for the larger group, as a positive dynamic. The motivation clauses in deuteronomic law show that widows, orphans, aliens, and Levites are set apart and commanded to engage in actions that benefit those outside of this group. This study, from a DS perspective, argues that this is a dangerous dynamic that marginalizes people, keeping them at the periphery of society while the actors—those who engage in these legislated actions—reap tangible benefits at their expense. The disability community is all too familiar with this dynamic as objects instead of autonomous human beings with the same agency and benefits. The analogy in biblical studies literature that treats widows, orphans, aliens, and sometimes Levites, to people with disabilities

stands as proof that Deuteronomy's presentation—or at least current readings of it—endures, and so the dynamic of separating and objectifying a particular group of people unquestioningly operates as a positively regarded dynamic in society today. After all, who argues that care of the vulnerable in society is a bad thing? The hope of this study is that it has caused some reasonable doubt among its readers as to the benefit of such a dynamic.

BIBLIOGRAPHY

- Abba, Raymond. "Priests and Levites in Deuteronomy." *VT* 27 (1977): 257-267.
- Abel, Emily K. "Medicine and Morality: The Health Care Program of the New York Charity Organization Society." *Social Service Review* 71 (1997): 634-651.
- . "Valuing Care: Turn-of-the-Century Conflicts between Charity Workers and Women Clients." *Journal of Women's History* 10 (1998): 32-52.
- Achenbach, Reinhard. "gêr — nâkhrîi — tôshav — zâr : Legal and Sacral Distinctions Regarding Foreigners in the Pentateuch." In *The Foreigner and the Law: Perspectives from the Hebrew Bible and the Ancient Near East*. Edited by Reinhard Achenbach, Rainer Albertz, and Jakob Wöhrle. BZAR 16. Wiesbaden: Harrassowitz Verlag, 2011: 29-51.
- Albertz, Rainer. "From Aliens to Proselytes: Non-Priestly and Priestly Legislation Concerning Strangers." In *The Foreigner and the Law: Perspectives from the Hebrew Bible and the Ancient Near East*. Edited by Reinhard Achenbach, Rainer Albertz, and Jakob Wöhrle. BZAR 16. Wiesbaden: Harrassowitz Verlag, 2011: 53-69.
- Alcock, Joan, P. *Food in the Ancient World*. Food Through History. Westport, CT: Greenwood, 2006.
- Alter, Robert. "A Literary Approach to the Bible." In *Beyond Form Criticism: Essays in Old Testament Literary Criticism*. Edited by Paul R. House. Winona Lake, IN: Eisenbrauns, 1992: 166-185.
- Álavarez, Manuel Baelo. "Levirate Marriage & Adoption in the Old Testament: Socio-Legal Role." *Estudios Bíblicos* 75 (2017): 407-419.
- Altmann, Peter. "What Do the 'Levites in Your Gates' Have to Do with the 'Levitical Priests'? An Attempt at European—North American Dialogue on the Levites in the Deuteronomic Law Corpus." In *Levites and Priests in Biblical History and Tradition*. Edited by Mark A. Leuchter and Jeremy M. Hutton. SBL Ancient Israel and Its Literature 9. Atlanta: Society of Biblical Literature, 2011: 135-153.
- . "Feast, Famine, and History: The Festival Meal *Topos* and Deuteronomy 26,1-15." *ZAW* 124 (2012): 555-567.
- Avalos, Hector. *Illness and Healthcare in the Ancient Near East: The Role of the Temple in Greece, Mesopotamia, and Israel*. Atlanta: Scholars Press, 1995.
- Avalos, Hector, Melcher, Sarah J., and Jeremy Schipper, eds. *This Abled Body: Rethinking Disabilities in Biblical Studies*. Atlanta: Society of Biblical Literature, 2007.

- Baden, Joel S. "The Violent Origins of the Levites: Text and Tradition." Pages 103-116 in *Levites and Priests in Biblical History and Tradition*, ed. Mark Leuchter and Jeremy M. Hutton. Society of Biblical Literature: Ancient Israel and Its Literature, 9. Leiden: Brill, 2012.
- Bartor, Assnat. "Reading Biblical Law as Narrative." *Prooftexts* 32 (2012): 292-311.
- Bendor, S. *The Social Structure of Ancient Israel: The Institution of the Family (BEIT 'AB) from the Settlement to the End of the Monarchy*. JBS 7. Jerusalem: Simor Ltd., 1996.
- Bennett, Harold V. *Injustice Made Legal: Deuteronomic Law and the Plight of Widows, Strangers, and Orphans in Ancient Israel*. The Bible and Its World. Grand Rapids: Eerdmans, 2002.
- Berman, Joshua. "The History of Legal Theory and the Study of Biblical Law." *CBQ* 76 (2014): 19-39.
- Bertholet, Alfred. *Die Stellung der Israeliten und der Juden zu den Fremden*. Freiburg: Mohr, 1896.
- Blenkinsopp, Joseph. "The Family in First Temple Israel," Pages 48-103 in *Families in Ancient Israel*. The Family, Religion, and Culture. Edited by Leo G. Perdue, Joseph Blenkinsopp, John J. Collins, and Carol Meyers. Louisville: Westminster John Knox, 1997.
- Boecker, Hans Jochen. *Law and the Administration of Justice in the Old Testament and Ancient East*. Minneapolis: Augsburg, 1980.
- Bojor, Vasile. "The Social Integration of Under-Privileged People in the Old Testament." *Studia Universitatis Babeş-Bolyai. Theologia reformata Transylvaniensis* 63 (2017): 32-42.
- Booth, Charles. *The Aged Poor*. London: Macmillan 1884; New York: Garland, 1980.
- . "Statistics of Pauperism in Old Age." *Journal of the Royal Statistical Society* 57 (1894): 235-253.
- . *Life and Labour of the People in London*. London: Macmillan, 1903.
- Bord, Lucien-Jean. "L'adoption dal la Bible et dans le droit Cunéform." *ZABR* 3 (1997): 174-194.
- Bordreuil, Pierre, Felice Israel, and Dennis Pardee. "King's Command and Widow's Plea: Two New Hebrew Ostraca of the Biblical Period." *NEA* 61 (1998): 2-13.
- Borowski, Oded. *Daily Life in Biblical Times*. Society of Biblical Literature Archaeology and Biblical Studies 5. Atlanta: Society of Biblical Literature, 2003.
- Bottéro, Jean. "The 'Code' of Hammurabi." In *Mesopotamia: Writing, Reasoning, and the Gods*, 156-184. Translated by Zainab Bahrani and Marc van de Mieroop. Chicago: University of Chicago Press, 1992.
- Boyer, Paul. *Urban masses and Moral Order in America, 1820-1920*. Cambridge: Harvard University Press, 1978.

- Braddock, David L. and Susan L. Parish. "An Institutional History of Disability." Pages 11-68 in *Handbook of Disability Studies*. Edited by Gary L. Albrecht, Katherine D. Seelman, and Michael Bury. Thousand Oaks, CA: Sage Publications, 2001.
- Bremner, Robert H. "Scientific Philanthropy, 1873-93." *Social Service Review* 30 (1956): 168-173.
- Brenner, Athalya and Jan W. van Henten. "Our Menu and What Is Not on It: An Introduction." *Semeia* 86 (1999): ix-xvi.
- Budge, E. A. W. *The Teaching of Amen-Em-Apt, Son of Kanekht*. London: Martin Hopkinson and Co., 1924.
- Byron, John. "EGLBS Presidential Address: Childlessness and Ambiguity in the Ancient World." *Proceedings EGLBS & MWSBL* 30 (2010): 17-46.
- Calhoun, Dorothy Donnell. *Boys in Patriarchal Homes*. Little Folks of the Bible 1. New York: Abingdon, 1915.
- Carroll R., M. Daniel. "Welcoming the Stranger: Toward a Theology of Immigration in Deuteronomy." Pages 441-461 in *For Our Good Always: Studies on the Message and Influence of Deuteronomy in Honor of Daniel I. Block*. Edited by Jason Shane DeRouchie. Winona Lake, IN: Eisenbrauns, 2013.
- Carroll, Robert P. "YHWH's Sour Grapes: Images of Food and Drink in the Prophetic Discourses of the Old Testament." *Semeia* 86 (1999): 113-131.
- Chapman, Cynthia R. *The House of the Mother: The Social Roles of Maternal Kin in Biblical Hebrew Narrative and Poetry*. ABRL. New Haven: Yale University Press, 2016.
- Ciocco, Antonio and Dorothy Perrott. "Statistics on Sickness as a Cause of Poverty: A Historical Review of U.S. and English Data." *Journal of the History of Medicine and Allied Sciences* 12 (1957): 42-60.
- Cody, Aelred. *A History of the Old Testament Priesthood*. Rome: Pontifical Biblical Institute, 1969.
- Cohen, Mark E. "The Incantation-Hymn: Incantation or Hymn?" *JAOS* 95 (1975): 592-611.
- Colker, Ruth. "The Americans with Disabilities Act: A Windfall for Defendants." *Harvard Civil Rights-Civil Liberties Law Review* 34 (1999): 99-162.
- Cook, Stephen L. "Those Stubborn Levites: Overcoming Levitical Disenfranchisement." In *Levites and Priests in Biblical History and Tradition*. Edited by Mark A. Leuchter and Jeremy M. Hutton. SBL Ancient Israel and Its Literature 9. Atlanta: Society of Biblical Literature, 2011: 155-170.
- Cooper, Jerrold S. "Medium and Message: Inscribed Clay Cones and Vessels from Presargonic Sumer." *RA* 79 (1985): 97-114.
- . *Presargonic Inscriptions*. New Haven, CT: American Oriental Society, 1986.

- Croatto, J. Serverino. *Biblical Hermeneutics: Toward a Theory of Reading as the Production of Meaning*. Maryknoll, NY: Orbis, 1987.
- Cross, Frank Moore. *Canannite Myth and Hebrew Epic: Essays in the History of the Religion of Israel*. Cambridge: Harvard University Press, 1973.
- Darwin, Charles. *The Voyage of the Beagle*. Auckland: The Floating Press, 1839; 2008.
- . *Origin of Species or The Preservation of Favored Races in the Struggle for Life*. Akron, OH; The Werner Company, 1872. Fondren Blue QH365.O2 1872
- . *The Descent of Man and Selection in Relation to Sex*. New York: Collier, 1901.
- . *Origin of the Species*. Ed. Jim Endersby. Cambridge: Cambridge University Press, 2009.
- Davies, Philip R. *In Search of 'Ancient Israel: ' A Study in Biblical Origins*, 2nd ed. London: T&T Clark, 2015.
- Davis, Lennard J. *Enforcing Normalcy: Disability, Deafness, and the Body*. London: Verso, 1995.
- . *Bending Over Backwards: Disability, Dismodernism, and Other Difficult Positions*. New York: New York University Press, 2002.
- Duke, Rodney K. "The Portion of the Levite: Another Reading of Deuteronomy 18:6-8." *JBL* 106 (1987): 193-201.
- Eagelton, Terry. *Literary Theory: An Introduction*. Second Edition. Minneapolis: University of Minnesota Press, 1996.
- Edzard, Dietz Otto. *Gudea and His Dynasty*. RIMP 3. Toronto: University of Toronto Press, 1997.
- Ellwood, Charles A. "Sociology and Charity: The 1899 Lectures." *Mid-American Review of Sociology* 13 (1988): 21-30.
- Emerton, J. A. "Priests and Levites in Deuteronomy." *VT* 12 (1962): 129-138
- Epsztein, Léon. *Social Justice in the Ancient Near East and the People of the Bible*. London: SCM, 1986.
- Fensham, F. Charles. "Widow, Orphan, and the Poor in Ancient Near Eastern Legal and Wisdom Literature." *JNES* 21 (1962): 129-139.
- Fewell, Danna Nolan. *The Children of Israel: Reading the Bible for the Sake of Our Children*. Nashville: Abingdon, 2003.
- Feigin, Samuel I. "Some Cases of Adoption in Israel." *JBL* 50 (1931): 186-200.
- Finkelstein, J. J. "Ammişaduqa's Edict and the Babylonian 'Law Codes,'" *JCS* 15 (1961): 91-104.
- Fleischer, Doris Zames. "Charity." *Encyclopedia of American Disability History* 1:168.

- Fleischer, Doris Zames and Frieda Zames. *The Disability Rights Movement: From Charity to Confrontation*. Philadelphia: Temple University Press, 2001.
- Foskett, Mary F. "The Accidents of Being and the Politics of Identity: Biblical Images of Adoption and Asian Adoptees in America." *Semeia* 90-91 (2002): 135-144.
- Frayne, Douglas R. *Presargonic Period (2700-2350 BC)*. RIMP 1. Toronto: University of Toronto Press, 2008.
- Frick, Frank S. "Widows in the Hebrew Bible: A Transactional Approach." Pages 139-51 in *A Feminist Companion to Exodus to Deuteronomy*. Edited by Athalya Brenner. Sheffield: Sheffield Academic Press, 1994.
- . "'Oil from Flinty Rock' (Deuteronomy 32:13): Olive Cultivation and Olive Oil Processing in the Hebrew Bible: A Socio-Materialist Perspective," *Semeia* 86 (1999): 3-17.
- Gadd, C. J. *Hammurabi and the End of His Dynasty*. Rev. ed. The Cambridge Ancient History 35. Cambridge: Cambridge University Press, 1965.
- Galil, Gershon. "The Hebrew Inscription from Khirbet Qeiyafa/Neṭa'im: Script, Language, Literature and History." *UF* 41 (2009): 193-242.
- Galpaz-Feller, Pnina. "The Widow in the Bible and in Ancient Egypt." *ZAW* 120 (2008): 231-253.
- Galton, Francis, "Hereditary Talent and Character." *Macmillan's Magazine* 12 (1865): 318-327.
- . *Natural Inheritance*. London: Macmillan, 1889.
- . *Hereditary Genius: An Inquiry into Its Laws and Consequences*. London: Macmillan, 1914.
- Garnsey, Peter. *Famine and Food Supply in the Graeco-Roman World: Responses to Risk and Crisis*. Cambridge: Cambridge University Press, 1988.
- . *Food and Society in Classical Antiquity*. KTAH. Cambridge: Cambridge University Press, 1999.
- Gelb, Steven A. "Darwin's Use of Intellectual Disability in *The Descent of Man*." *Disability Studies Quarterly* 28 (2008): 35.
- Gemser, Berend. "The Importance of the Motivation Clause in Old Testament Law." *VTSup* 1 (1953): 50-66.
- Gottwald, Norman K. *The Tribes of Yahweh: A Sociology of the Religion of Liberated Israel, 1250-1050 B.C.E.* BibSem 66. Sheffield: Sheffield Academic, 1999.
- . *Social Justice and the Hebrew Bible*. 3 vols. Center and Library for the Bible and Social Justice Series. Eugene, OR: Cascade, 2016.
- Gowan, Donald E. "Wealth and Poverty in the Old Testament: The Case of the Widow, the Orphan, and the Sojourner." *Int* 41 (1987): 341-353.

- Greg, W. R. "On the Failure of "Natural Selection" in the Case of Man." *Fraser's Magazine* 78 (1868): 353-362.
- Griffo, Giampiero. "Models of Disability, Ideas of Justice, and the Challenge of Full Participation." *Modern Italy* 19 (2014): 147-159.
- Groce, Nora Ellen. *Everyone Here Spoke Sign Language: Hereditary Deafness on Martha's Vineyard*. Cambridge, MA: Harvard University Press, 1985.
- Gunn, David M. "New Directions in the Study of Biblical Hebrew Narrative." In *Beyond Form Criticism: Essays in Old Testament Literary Criticism*. Edited by Paul R. House. Winona Lake, IN: Eisenbrauns, 1992: 412-422.
- Gunneweg, Antonius H. J. *Leviten und Priester: Hauptlinien der Traditionsbildung und Geshichte des israelitisch-jüdischen Kultpersonals*. FRLANT 89. Göttingen: Vandenhoeck & Ruprecht, 1965.
- Gurteen, Stephen Humphreys Villiers. *Phases of Charity*. Buffalo, NY: Haas, Nauert & Klein, Printers, 1877.
- . *Provident Schemes*. Buffalo, NY: The Courier Company: Charity Organization Society of the City of Buffalo, 1879.
- . *Hints and Suggestions to the Visitors of the Poor*. Buffalo, NY: The Charity Organization Society of the City of Buffalo, 1879.
- . *What is Charity Organization?* Buffalo, NY: Charity Organization Society of the City of Buffalo, 1881.
- . *A Handbook of Charity Organization*. Buffalo, NY: The Courier Company, 1882.
- . *How Paupers Are Made: An Address on the Prevention of Pauperism*. Chicago: R. R. Donnelley & Sons, 1883.
- . "Beginning of Charity Organizations in America." *Lend-A-Hand* 13 (1894): 352-367.
- Halberstam, Chaya. "The Art of Biblical Law." *Prooftexts* 27 (2007): 345-364.
- Halpern, Baruch. "The Centralization Formula in Deuteronomy." *VT* 31/1 (1981): 20-38.
- Hamilton, Jeffries. *Social Justice and Deuteronomy: The Case of Deuteronomy 15*. Vol. 136 of *SBL Dissertation Series*. Edited by David L. Petersen. Atlanta: Scholars Press, 1992.
- Haran, Menahem. *Temples and Temple-Service in Ancient Israel: An Inquiry into the Character of the Cult Phenomena and the Historical Setting of the Priestly School*. Oxford: Clarendon, 1978.
- Heller, Roy L. *Narrative Structure and Discourse Constellations: An Analysis of Clause Function in Biblical Hebrew Prose*. HSS. Winona Lake, IN: Eisenbrauns, 200.
- . "'The Widow' in Deuteronomy: Beneficiary of Compassion and Co-Option." Pages 1-11 in *The Impartial God: Essays in Biblical Studies in Honor of Jouette M. Bassler*. Edited by Calvin J. Roetzel and Robert L. Foster. Sheffield: Sheffield Phoenix Press, 2007.

- Henrey, K. H. "Land Tenure in the Old Testament." *PEQ* 86 (1954): 5-15.
- Henthorn, Thomas C. "Faith, Philanthropy, and Southern Progress: Social Policy and Urban Development in Houston, Texas, 1890-1930." PhD Diss., Michigan State University, 2009.
- . "'A Nation's Need—Good and Well Trained Mothers' : Gender, Charity, and the New Urban South." *Frontiers: A Journal of Women Studies* 32 (2011): 71-101.
- . "Building a Moral Metropolis: Philanthropy and City Building in Houston, Texas." *Journal of Urban History* 44 (2018): 402-420.
- Hiebert, Paula S. "'Whence Shall Help Come to Me?': The Biblical Widow." Pages 125-141 in *Gender and Difference in Ancient Israel*. Edited by Peggy L. Day. Minneapolis: Fortress Press, 1989.
- Holms, Martha Stoddard. *Fictions of Affliction: Physical Disability in Victorian Culture*. Ann Arbor: University of Michigan Press, 2004.
- Hoppe, Leslie J. "The Levitical Origins of Deuteronomy Reconsidered." *BR* 28 (1983): 27-36.
- Horner, Thomas M. "Changing Concepts of the 'Stranger' in the Old Testament." *AThR* 42 (1960): 49-53.
- House, Paul R. "The Rise and Current Status of Literary Criticism of the Old Testament." In *Beyond Form Criticism: Essays in Old Testament Literary Criticism*. Edited by Paul R. House. Winona Lake, IN: Eisenbrauns, 1992: 3-22.
- Houston, Walter J. *Contending for Justice: Ideologies and Theologies of Social Justice in the Old Testament*. New York: T&T Clark, 2006.
- Hubbard, Charles Meredith. "Relation of Charity-Organization Societies to Relief Societies and Relief Giving." *American Journal of Sociology* 6 (1901): 783-789.
- Hunter, Robert. "The Relation Between Social Settlements and Charity Organization." *Journal of Political Economy* 11 (1902): 75-88.
- Hurowitz, Victor Avigdor. *Inu Anum Sirum: Literary Structures in the Non-Juridical Sections of the Codex Hammurabi*. Occasional Publications of the Samuel Noah Kramer Fund 15. Philadelphia: Philadelphia University Museum, 1994.
- . "Hammurabi in Mesopotamian Tradition." Pages 497-532 in *An Experienced Scribe Who Neglects Nothing: Ancient Near Eastern Studies in Honor of Jacob Klein*. Bethesda, MD: CDL Press, 2005.
- . "What Was Codex Hammurabi, and What Did It Become?" *Maarav* 18 (2011): 89-100.
- Hwang, Jerry, *The Rhetoric of Remembrance: An Investigation of the "Fathers" in Deuteronomy*. *Siphrut Literature and Theology of the Hebrew Scriptures* 8 (Winona Lake: Eisenbrauns, 2012).
- Jackson, Bernard S. "Justice and Righteousness in the Bible: Rule of Law or Royal Paternalism?" *ZABR* 4 (1998): 218-262.

- . “‘Law’ and ‘Justice’ in the Bible.” *JJS* 49 (1998): 218-229.
- . “Revolution in Biblical Law: Some Reflections on the Role of Theory in Methodology.” *JSS* 50 (2005): 83-115.
- . “Models in Legal History: The Case of Biblical Law.” *Journal of Law and Religion* 18 (2002-2003): 1-30
- Jagersma, H. “Tithes in the Old Testament.” In *Remembering All the Way: A Collection of Old Testament Studies Published on the Occasion of the Fortieth Anniversary of the Oudtestamentish Werkgezelschap in Nederland*. OtSt 21. Leiden: Brill, 1981.
- Josberger, R. “For Your Good Always: Restraining the Rights of the Victor for the Well-being of the Vulnerable (Deut 21:10-14).” In *For Our Good Always: Studies on the Message and Influence of Deuteronomy in Honor of Daniel I. Block*. Edited by Jason Shane DeRouchie. Winona Lake, IN: Eisenbrauns, 2013: page 165-187.
- Kardimon, Samson. “Adoption as a Remedy for Infertility in the Period of the Patriarchs.” *Journal of Semitic Studies* 3 (1958): 123-126.
- Katz, Michael B. *Poverty and Policy in American History*. New York: Academic Press, 1983.
- . *In the Shadow of the Poorhouse: A Social History of Welfare in America*. New York: Basic Books Inc., 1986.
- . *The Undeserving Poor: America’s Enduring Confrontation with Poverty*. Second Edition. New York: Oxford University Press, 2013.
- King, L.W. *The Letters and Inscriptions of Hammurabi, King of Babylon, About B.C. 2200: To Which Are Added a Series of Letters of Other Kings of the First Dynasty of Babylon*. Luzac’s Semitic Texts and Translation Series 3. New York: AMS Press, 1976.
- Knierim, Rolf P. “Food, Land, and Justice.” Pages 225-43 in *The Task of Old Testament Theology: Substance, Method, and Cases*. Grand Rapids: Eerdmans, 1995.
- Knight, Douglas A. *Law, Power, and Justice in Ancient Israel*. Louisville: Westminster John Knox, 2011. P. 9-86, 153-54, 217-22.
- Kogut, Alvin, B. “The Negro and the Charity Organization Society in the Progressive Era.” *Social Service Review* 44 (1970): 11-21.
- Krapf, Thomas. “Traditionsgeschichtliches zum Deuteronomischen Fremdling-Waise-Witwe-Gebot.” *VT* 34 (1984): 87-91.
- Kraus, F. R. “Ein zentrales Problem des altmesopotamischen Rechtes: Was ist der Codex Hammurabi?” *Genava* 8 (1960): 283-296.
- Kusmer, Kenneth L. “The Functions of Organized Charity in the Progressive Era: Chicago as a Case Study.” *The Journal of American History* 60 (1973): 657-678.
- La Vergata, Antonello. “Images of Darwin.” Pages 961-961 in *The Darwinian Heritage*. Edited by David Kohn and Malcolm Kottler. Princeton: Princeton University Press, 1985.
- Lambert, Maurice. “Les ‘Réforms’ d’Urukagina.” *RA* 50 (1956): 169-184

- . “Document pour Les 3 ‘Réformes’ d’Urukagina.” *RA* 51 (1957): 139-144.
- . “Recherches sur Les Réformes d’Urukagina.” *Orientalia* 44 (1975): 22-51.
- Lambert, W. G. “Nebuchadnezzar King of Justice.” *Iraq* 27 (1965): 1-11.
- Lane, James B. “Jacob A. Riis and Scientific Philanthropy during the Progressive Era.” *Social Service Review* 47 (1973): 32-48.
- Lebendiger, Israel. “The Minor in Jewish Law.” *JQR* 6 (1916): 459-493.
- Leeb, Carolyn. “The Widow: Homeless and Post-Menopausal.” *BTB* 32 (2002): 160-162.
- Lemaire, André. “Veuve Sans Enfants Dans Le Royaume De Juda.” *ZABR* 5 (1999): 1-14.
- Leuchter, Mark. “‘The Levite in Your Gates’: The Deuteronomic Redefinition of Levitical Authority,” *JBL* 126 (2007): 417-436.
- Leuchter, Mark and Jeremy M. Hutton. “Introduction” in *Levites and Priests in Biblical History and Tradition*. Edited by Mark Leuchter and Jeremy M. Hutton. Vol. 9 in *Ancient Israel and Its Literature*. Edited by Steven L. McKenzie. Atlanta: Society of Biblical Literature, 2011.
- . *The Levites and the Boundaries of Israelite Identity*. New York: Oxford University Press, 2017.
- Lewis, Verl S. “Stephen Humphreys Gurteen and the American Origins of Charity Organization.” *Social Service Review* 40 (1966): 190-201.
- Levenson, J. D. “The Theologies of Commandment in Biblical Israel.” *HTR* 73 (1980): 17-34.
- Levinson, Bernard M. *Deuteronomy and the Hermeneutics of Legal Innovation*. Oxford: Oxford University Press, 1997.
- . “The Reconceptualization of Kingship in Deuteronomy and the Deuteronomic History's Transformation of Torah.” *VT* 51 (2001): 511-34.
- Linton, Simi. *Claiming Disability: Knowledge and Identity*. New York: New York University Press, 1998.
- Lohfink, Norbert. “Poverty in the Laws of the Ancient Near East and of the Bible” *TS* 52 (1991): 34-50.
- . “The ‘Small Credo’ of Deuteronomy 26:5-9” Pages 265-89 in *Theology of the Pentateuch; Themes of the Priestly Narrative and Deuteronomy*. Minneapolis: Fortress Press, 1994.
- Longmore, Paul K. “A Note on Language and the Social Identity of Disabled People.” *American Behavioral Scientist* 28 (1985): 419-423.
- . “Conspicuous Contribution and American Cultural Dilemmas: Telethon Rituals of Cleansing and Renewal.” Pages 134-158 in *The Body and Physical Difference: Discourses of Disability*. Edited by David T. Mitchell and Sharon L. Snyder. Ann Arbor: University of Michigan Press, 1997.

- . *Why I Burned My Book and Other Essays on Disability*. American Subjects. Edited by Robert Dawidoff. Philadelphia: Temple University Press, 2003.
- . “The Second Phase.” Pages 141-150 in *Disability: The Social, Political, and Ethical Debate*. Edited by Robert M. Baird, Stuart E. Rosenbaum, and S. Kay Toombs. Amherst, NY: Prometheus, 2009.
- . *Telethons: Spectacle, Disability, and the Business of Charity*. Edited by Catherine Kudlick. Oxford: Oxford University Press, 2016.
- Lowell, Josephine Shaw. *Public Relief and Private Charity*. New York: Arno Press 1971 [1884].
- Lundbom, Jack R. “The Inclusio and Other Framing Devices in Deuteronomy.” *VT* 46 (1996): 314-315.
- MacDonald, Nathan. “Food, Land and Memory.” Pages 134-39 in *Deuteronomy and the Meaning of “Monotheism.”* Tübingen: Mohr Siebeck, 2003.
- . *What Did the Ancient Israelites Eat?: Diet in Biblical Times*. Grand Rapids: Eerdmans, 2008.
- . *Not Bread Alone: The Uses of Food in The Old Testament*. Oxford: Oxford University Press, 2008.
- Malchow, Bruce V. “Social Justice in the Israelite Law Codes.” *Word & World* 4 (1984): 299-306.
- . *Social Justice in the Hebrew Bible*. Collegeville, MN: Liturgical Press, 1996.
- Matthews, Victor H. “The Anthropology of Slavery in the Covenant Code.” In *Theory and Method in Biblical and Cuneiform Law: Revision, Interpolation, and Development*. Edited by Bernard M. Levinson. JSOTSup 181. Sheffield: Sheffield Academic Press, 1994.
- . “Treading the Winepress: Actual and Metaphorical Viticulture in the Ancient Near East.” *Semeia* 86 (1999): 19-32.
- Matthews, Victor H. and Don C. Benjamin. *Old Testament Parallels: Laws and Stories from the ancient Near East*. New York: Paulist, 2006.
- McConville, J. G. *Law and Theology in Deuteronomy*. JSOTSup 33. Sheffield: JSOT Press 1984.
- . *Deuteronomy*. Downers Grove, IL: InterVarsity Press, 2002.
- McFadden, James J. “Disciplining the “Frankenstein of Pauperism”: The Early Years of Charity Organization Case Recording, 1877-1907. *Social Service Review* 88 (2014): 469-492.
- Merrill, Eugene. “Deuteronomy and de Wette: A Fresh Look as a Fallacious Premise.” *JSEOT* 1 (2012): 25-42.
- Meyers, Carol L. *Discovering Eve: Ancient Israelite Women in Context*. New York: Oxford University Press, 1988.

- . “‘To Her Mother’s House’: Considering a Counterpart to the Israelite *bêt ‘āb*.” Pages 39-51 in *The Bible and the Politics of Exegesis: Essays in Honor of Norman K. Gottwald on His Sixty-Fifth Birthday*. Edited by David Jobling, Peggy L. Day, and Gerald T. Sheppard. Cleveland: Pilgrim Press, 1991.
- . “The Family in Early Israel.” Pages 1-47 in *Families in Ancient Israel. The Family, Religion, and Culture*. Edited by Edited by Leo G. Perdue, Joseph Blenkinsopp, John J. Collins, and Carol Meyers. Louisville: Westminster John Knox, 1997.
- Microop, Marc van de. “Hammurabi’s Self-Presentation.” *Orientalia* 80 (2011): 305-338.
- Miller, Patrick D. “That the Children May Know: Children in Deuteronomy.” Pages 45-62 in *The Child in the Bible*. Edited by Marcia J. Bunge, Terence E. Fretheim, and Beverly Roberts Gaventa. Grand Rapids: Eerdmans, 2008.
- Mitchell, Sir Arthur. *The Past in the Present: What Is Civilization?* New York: Harper & Brothers, 1881.
- Mitchell, David T. and Sharon L. Snyder. “Introduction.” Pages 1-31 in *The Body and Physical Difference: Discourses of Disability*. Edited by David T. Mitchell and Sharon L. Snyder. Ann Arbor: University of Michigan Press, 1997.
- Moran, William L. “Ancient Near Eastern Background of The Love of God in Deuteronomy.” *CBQ* 25 (1963): 77-87.
- Moss, Candida R. and Jeremy Schipper. “Introduction,” in *Disability Studies and Biblical Literature*. Edited by Candida R. Moss and Jeremy Schipper. New York: Palgrave Macmillan, 2011.
- Muilenburg, James. “Form Criticism and Beyond.” *JBL* 88 (1969): 1-18.
- Murphy, A. James. “Children in Deuteronomy: The Partisan Nature of Divine Justice.” *BibInt* 20 (2012): 1-15.
- Na’Aman, Nadav. “Sojourners and Levites in the Kingdom of Judah in the Seventh Century BCE,” *ZABR* 14 (2008): 237-279.
- Nielsen, Kim E. *A Disability History of the United States*. ReVisioning American History. Boston: Beacon Press, 2012.
- Nurmela, Risto, *The Levites: Their Emergence as a Second-Class Priesthood*. SFSHJ 193. Atlanta: Scholars, 1998.
- Oliver, Michael. *The Politics of Disablement: A Sociological Approach*. New York: St. Martins, 1990.
- Olyan, Saul M. *Rites and Rank: Hierarchy in Biblical Representations of Cult*. Princeton, N.J.: Princeton University Press, 2000.
- . *Disability in the Hebrew Bible: Interpreting Mental and Physical Differences*. New York: Cambridge, 2008.
- Patrick, Dale. “Casuistic Law Governing Primary Rights and Duties” *JBL* 92 (1973): 180-184.

- . *Old Testament Law*. Atlanta: John Knox, 1985.
- . “The Rhetoric of Collective Responsibility in Deuteronomic Law.” Pages 421-436 in *Pomegranates and Golden Bells: Studies in Biblical, Jewish, and Near Eastern Ritual, Law, and Literature in Honor of Jacob Milgrom*. Winona Lake, IN: Eisenbrauns, 1995.
- Patterson, Robert D. “The Widow, the Orphan, and the Poor in the Old Testament and Extra-Biblical Literature.” *BSac* 130 (1973): 223-34.
- Pernick, Martin S. “Defining the Defective: Eugenics, Aesthetics, and Mass Culture in Early-Twentieth-Century America.” Pages 89-110 in *The Body and Physical Difference: Discourses of Disability*. Edited by David T. Mitchell and Sharon L. Snyder. Ann Arbor: University of Michigan Press, 1997.
- Polzin, Robert. *Moses and the Deuteronomist: A Literary Study of the Deuteronomic History*. New York: Seabury, 1980.
- Postgate, J. N. *Early Mesopotamia: Society and Economy at the Dawn of History*. London: Routledge, 1992.
- Pressler, Carolyn. *The View of Women Found in the Deuteronomic Family Laws*. BZAW 216. Berlin: de Gruyter, 1993.
- Rad, Gerhard von. *Studies in Deuteronomy*. London: SCM Press, 1953.
- . *Deuteronomy*. Translated by Dorteia Barton. OTL. Philadelphia: Westminster, 1966.
- Raphael, Rebecca. *Biblical Corpora: Representations of Disability in Hebrew Biblical Literature*. LHBOTS 445. Edited by Claudia V. Camp and Andrew Mein. New York: T&T Clark, 2008.
- Ramírez Kidd, José E. *Alterity and Identity in Israel: The Gēr in the Old Testament*. BZAW 283. Berlin: de Gruyter, 1999.
- Renkema, J. “Does Hebrew YTWm Really Mean Fatherless?” *VT* 45 (1995), 119-21.
- Rogers, James Allen. “Darwinism and Social Darwinism.” *Journal of the History of Ideas* 33 (1972): 265-280.
- Rook, John. “Making Widows: The Patriarchal Guardian at Work.” *BTB* 27 (1997): 10-15.
- . “When is a Widow Not a Widow? Guardianship Provides an Answer.” *BTB* 28 (1998): 4-6.
- Rose, Sarah F. *No Right to Be Idle: The Invention of Disability, 1840s – 1940s*. Chapel Hill: The University of North Carolina Press, 2017.
- Roth Martha T. “The Neo-Babylonian Widow.” *JCS* 43 (1991): 1-26.
- . “Mesopotamian Legal Tradition and the Laws of Hammurabi.” *Chicago-Kent Law Review* 71 (1995): 13-39.
- . “The Law Collection of King Hammurabi: Toward an Understanding of Codification and Text.” Pages 9-31 in *La Codification des lois dan l’antiquité: Actes du Colloque de*

- Strasbourg, 27-29 Novembre 1997. Ed. Edmond Lévy. Travaux du Centre Recherche Le Proche Orient et La Grèce Antiques 16. Paris: De Boccard, 2000.
- . *Law Collections from Mesopotamia and Asia Minor*, 2nd edition. Writings from the Ancient World 6. Atlanta: Scholars Press, 1997.
- . “Hammurabi’s Wronged Man,” *JAOS* 122 (2002): 38-45.
- Ruswick, Brent. “Just Poor Enough: Gilded Age Charity Applicants Respond to Charity Investigators.” *The Journal of the Gilded Age and the Progressive Era* 10 (2011): 265-87.
- Schipper, Jeremy. *Disability Studies and the Hebrew Bible: Figuring Mephibosheth in the David Story*. LHBOTS 441. Edited by Claudia V. Camp and Andrew Mein. New York: T&T Clark, 2006.
- . “Disability.” *The Oxford Encyclopedia of The Bible and Law* 1:195-99. Ed. Brent A. Strawn. Oxford: Oxford University Press, 2015.
- Schloen, J. David. *The House of the Father as Fact and Symbol: Patrimonialism in Ugarit and the Ancient Near East*. Winona Lake, IN: Eisenbrauns, 2001.
- Schmitt, Eleonore. *Das Essen in der Bible: Literaturethnologische Aspekte des Alltäglichen*. Studien zur Kulturanthropologie 2. Münster: Lit, 1994.
- Schneider, David M. and Albert Deutsch. *The History of Public Welfare in New York State 1867-1940*. Chicago: The University of Chicago Press, 1941.
- Schneiderhan, Erik. “Jane Addams and Charity Organization in Chicago.” *Journal of the Illinois State Historical Society* 19 (2007-2008): 299-327.
- Scotch, Richard K. “Models of Disability and the Americans with Disabilities Act.” Pages 171-184 in *Disability: The Social, Political, and Ethical Debate*. Edited by Robert M. Baird, Stuart E. Rosenbaum, and S. Kay Toombs. Amherst, NY: Prometheus, 2009.
- Seax, M. J. “KÖNIGTUM.” Pages 141-173 in vol. 11 of *Reallexicon der Assyriologie und Vorderasiatischen Archäologie*. Edited by Eric Ebeling and Bruno Meissner. 15 vols. Berlin: de Gruyter, 1968.
- Shafer-Elliot, Cynthia. *Food in Ancient Judah: Domestic Cooking in the Time of the Hebrew Bible*. New York: Routledge, 2014.
- Shakespeare, Tom. *Disability Rights and Wrongs*. New York: Routledge, 2006.
- Shanks, Hershel. “Real or Fake? : The ‘Three Shekels’ and ‘Widow’s Plea Ostraca.’” *BAR* 29 (2003): 40-45.
- Shapiro, Joseph P. *No Pity: People with Disabilities Forging a New Civil Rights Movement*. New York: Three Rivers Press, 1993.
- Siebers, Tobin. *Disability Theory*. Corporealities: Discourses of Disability. Edited by David T. Mitchell and Sharon L. Snyder. Ann Arbor: University of Michigan Press, 2008.

- Smith, Bonnie G. and Beth Hutchison, eds. *Gendering Disability*. New Brunswick: Rutgers University Press, 2004.
- Sneed, Mark. "Israelite Concern for the Alien, Orphan, and Widow: Altruism or Ideology?" *ZAW* 111 (1999): 498-507.
- Snyder, Sharon L. and David T. Mitchell. *Cultural Locations of Disability*. Chicago: The University of Chicago Press, 2006.
- Sonsino, Rifat. *Motive Clauses in Hebrew Law: Biblical Forms and Near Eastern Parallels*. SBLDS 45. Chico, CA: Scholars Press, 1980.
- . "Characteristics of Biblical Law" *Judaism* 33 (1984): 202-209.
- Spina, F. A. "Israelites as *gērîm*, 'Sojourners,' in Social and Historical Context." In *The Word of the Lord Shall Go Forth: Essays in Honor of David Noel Freedman in Celebration of his Sixtieth Birthday*. Edited by Carol L. Meyers and M. O'Connor; Winona Lake, IN: Eisenbrauns, 1983: 321-35.
- Stager, Lawrence E. "The Archaeology of the Family in Ancient Israel" *BASOR* 260 (1985): 1-35.
- Stanley, Amy Dru. "Beggars Can't Be Choosers: Compulsion and Contract in Postbellum America," *Journal of American History* 78 (1992): 1265-1293.
- Stephens, Ferris J. "Notes on Some Economic Texts of the Time of Urukagina," *RA* 49 (1955): 129-136.
- Sternberg, Naomi, "The Deuteronomistic Law Code and the Politics of State Centralization." Pages 161-170 in *The Bible and the Politics of Exegesis*. Edited by David Jobling, Peggy L. Day, and Gerald T. Sheppard. Cleveland, OH: Pilgrim Press, 1991.
- . *The World of the Child in the Hebrew Bible*. Hebrew Bible Monographs 51. Sheffield: Sheffield Phoenix Press, 2013.
- Stone, Deborah A. *The Disabled State*. Philadelphia: Temple University Press, 1984.
- Stone, Ken. *Practicing Safer Texts: Food, Sex and Bible in Queer Perspective*. Queering Theology. London: T&T Clark, 2005.
- Strawn, Brent A. "Keep/Observe/Do—Carefully—Today!: The Rhetorical of Repetition in Deuteronomy. In *A God So Near: Essays on Old Testament Theology in Honor of Patrick D. Miller*. Edited by Brent A. Strawn and Nancy R. Bowen. Winona Lake, IN: Eisenbrauns, 2003: 215-240.
- . " "Israel, My Child": The Ethics of a Biblical Metaphor." Pages 103-140 in *The Child in the Bible*. Edited by Marcia J. Bunge, Terence E. Fretheim, and Beverly Roberts Gaventa. Grand Rapids: Eerdmans, 2008.
- Taylor, Lloyd C. Jr. "Josephine Shaw Lowell and American Philanthropy." *New York History* 44 (1963): 336-364.

- The Electronic Text Corpus of Sumerian Literature. "Enki and Ninmah: A Translation." University of Oxford. <http://etcsl.orinst.ox.ac.uk/section1/tr112.htm>.
- . "A Hymn to Nanše (Nanše A)." <http://etcsl.orinst.ox.ac.uk/cgi-bin/etcsl.cgi?text=c.4.14.1&display=Crit&charenc=&lineid=c4141.10#c4141.10>.
- . "A Hir-namshub to Utu (Utu F): Translation." <http://etcsl.orinst.ox.ac.uk/section4/tr432f.htm>.
- Thomas, Carol. *Female Forms: Experiencing and Understanding Disability*. Philadelphia: Open University Press, 1999.
- Thompson, R. J. *Moses and the Law in a Century of Criticism since Graf*. VTSup 19 Leiden: Brill, 1970.
- Thomson, Rosemarie Garland. *Extraordinary Bodies: Figuring Physical Disability in American Culture and Literature*. New York: Columbia University Press, 1997.
- Toorn, Karel van der. "Torn between Vice and Virtue: Stereotypes of the Widow in Israel and Mesopotamia." Pages 1-13 in *Female Stereotypes in Religious Traditions*. Edited by Ria Kloppenborg and Wouter J. Hanegraaff. SHR 66. Leiden: Brill, 1995.
- . "The Public Image of the Widow in Ancient Israel." Pages 19-30 in *Between Poverty and the Pyre: Moments in the History of Widowhood*. Ed. Jan Bremmer and Lourens van den Bosch. London: Routledge, 1995.
- Trattner, Walter I. *From Poor Law to Welfare State: A History of Social Welfare in America*. New York: Free Press, 1974.
- Trent, J. W., Jr. *Inventing the Feeble Mind: A History of Mental Retardation in the United States*. Berkeley: University of California Press, 1994.
- Unterman, Jeremiah. *Justice for All: How the Jewish Bible Revolutionized Ethics*. Philadelphia: Jewish Publication Society of America, 2017.
- Van Houten, Christiana. *The Alien in Israelite Law*. JSOTSup 107. Sheffield: JSOT Press, 1991.
- Vaux, Roland de. *Ancient Israel: Its Life and Institutions*. New York: McGraw Hill, 1961.
- Vincent, A. W. "The Poor Law Reports of 1909 and the Social Theory of the Charity Organization Society." *Victorian Studies* 27 (1984): 343-363.
- Wallace, Alfred R. "The Origin of Human Races and the Antiquity of Man Deduced from the Theory of "Natural Selection." *Journal of the Anthropological Society of London*, 2 (1864): 318-327.
- Waldow, H. Eberhard von. "Social Responsibility and Social Structure in Early Israel." *CBQ* 32 (1970): 182-204.
- Watson, Frank Dekker. *The Charity Organization Movement in the United States: A Study in American Philanthropy*. New York: Macmillan, 1922.
- Watts, James W. *Reading Law: The Rhetorical Shaping of the Pentateuch*. BibSem 59. Sheffield: Sheffield Academic, 1999.

- . “The Rhetoric of Sacrifice.” Pages 3-16 in *Ritual and Metaphor: Sacrifice in the Bible*. Edited by Christian A. Eberhart. Atlanta: Society of Biblical Literature, 2011.
- Weber, M. *Ancient Judaism*. Glencoe, IL: Free Press, 1952.
- Weinfeld, Moshe. “The Origin of the Humanism in Deuteronomy.” *JBL* 80, no. 3 (1961): 241-47.
- . *Social Justice in Ancient Israel and in the Ancient Near East*. Minneapolis: Fortress, 1995.
- Weisberg, Dvora, E. “The Widow of Our Discontent: Levirate Marriage in the Bible and Ancient Israel.” *JSOT* 28 (2004): 403-429.
- Wellhausen, Julius. *Prolegomena to the History of Ancient Israel*. New York: Meridian Books, 1957.
- Wells, Bruce. “What is Biblical Law?: A Look at Pentateuchal Rules and Near Eastern Practice.” *CBQ* 70 (2008): 223-243.
- Westbrook, Raymond. “Biblical and Cuneiform Law Codes.” *RB* 92 (1985): 247-264.
- . *Property and Family in Biblical Law*. JSOTSup 113. Sheffield: Sheffield Academic Press, 1991.
- Whitelam, Keith W. *The Just King : Monarchical Judicial Authority in Ancient Israel*. Sheffield: JSOT Press, 1979.
- Wiele, Tarah van de. “What Rights Get Wrong about Justice for Orphans: An Old Testament Challenge to a Modern Ideology.” *SCE* 29 (2016): 69-83.
- Wilkins, John, F. D. Harvey, and Mike Dobson, eds. *Food in Antiquity*. Exeter: University of Exeter Press, 1995.
- Wilkins, John and Shaun Hill. *Food in the Ancient World*. Ancient Cultures. Oxford: Blackwell, 2006.
- Wilson, John A. “The Instruction of Amen-Em-Opet.” Pages 419-420 in ANET. 2nd ed. Edited by John B. Pritchard, et al. Princeton: Princeton University Press, 1955.
- Woodroffe, Kathleen. *From Charity to Social Work in England and the United States*. Toronto: University of Toronto Press, 1962.
- . “The Royal Commission on the Poor Laws, 1905-1909.” *International Review of Social History* 22 (1977): 137-164.
- Wyatt, Stephanie. “Jezebel, Elijah, and the Widow of Zarephath; A Ménage à Trois that Estranges the Holy and Makes the Holy the Strange.” *JSOT* 36 (2012): 435-458.
- Wright, Christopher J. H. *God’s People in God’s Land: Family, Land, and Property in the Old Testament*. Grand Rapids; Eerdmans, 1990.
- Wright, David P. *Inventing God’s Law: How the Covenant Code of the Bible Used and Revised the Laws of Hammurabi*. New York: Oxford University Press, 2009.

- Wright, G. Ernest. "The Levites in Deuteronomy." *VT* 4 (1954): 325-330.
- Yang, Zhi. "King of Justice." *AuOr* 9 (1991): 243-249.
- Young, Iris Marion. *Justice and the Politics of Difference*. Princeton: Princeton University Press, 1990.
- Zagarell, Allen. "Trade, Women, Class, and Society in Ancient Western Asia." *Current Anthropology* 27 (1986): 415-430.
- Ziliak, Stephen T. "Kicking the Malthusian Vice: Lessons from the Abolition of "Welfare" in the Late Nineteenth Century." *The Quarterly Review of Economics and Finance* 37 (1997): 449-468.
- . "Self-Reliance before the Welfare State: Evidence from the Charity Organization Movement in the United States." *The Journal of Economic History* 64 (2004): 433-461.